

JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS

STATE COURT OUTLOOK

California Courts in Crisis

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State Court Outlook

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Judicial Council of California

Chief Justice Ronald M. George
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Challenges from hefty and complex caseloads and insufficient budgets continue to stretch to the breaking point many California trial courts, leaving them apprehensive about their continued ability to render the quality of justice demanded by the state's Constitution and expected by the state's residents. The result, remarked former Chief Justice Malcolm M. Lucas in his 1995 address to the State Bar, "is a court system that spends too much time trying to cope."

What the system is coping with is a web of social and political problems as well as economic pressures. Workloads are huge—almost 9 million filings in fiscal year 1994–95—and reflect a two-decade explosion in criminal cases. Such cases nearly tripled during the past 20 years and devour more court time and resources than any other case category. Driven largely by prosecutions of cases involving illegal drugs, criminal cases increased in California during 1994–95 as they did across the nation. Between 50 and 70 percent of all crimes in the state are committed by people who test positive for drugs at the time of arrest.

"Stable, adequate funding is probably the most fundamental ingredient for courts to make a successful transition into the 21st century," said Chief Justice Ronald M. George in his State of the Judiciary Address to the California Legislature on May 15, 1996. "We have taken many strides to move ahead, but in this critical area we are still caught in the anachronistic past."

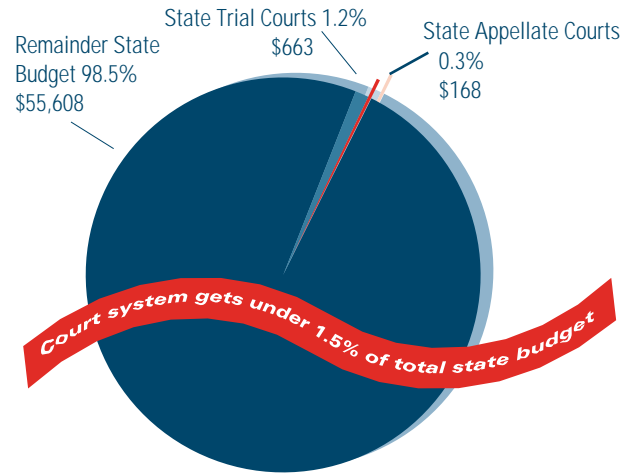
Court Perspectives

In addition, a poor state economy has had detrimental effects not only on the courts' financial resources but on whole communities and families. The stresses on families from economic hardship contribute to larger domestic relations caseloads for the courts. Today one in four California children lives in poverty, more than the national average of one in five. The chances that many of these children will require court intervention are very great. Child dependency and delinquency cases have skyrocketed over the years. (See Section II: Trial Court Report.)

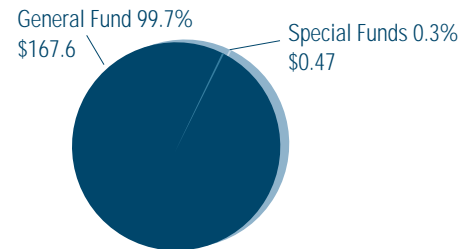
A strong statistical correlation also exists between caseloads and a state's population. California now has over 31 million people, nearly double the population of the 1960s, and this number is forecast to climb to 50 million by the year 2020. Immigration, which will account for 65 percent of this growth, has transformed California into the world's largest multicultural society. By the turn of the century, some 224 languages will be spoken for which qualified court interpreters will be needed. For many residents, language and cultural barriers already frustrate their access to justice.

1995-96 Judicial Branch Budget*

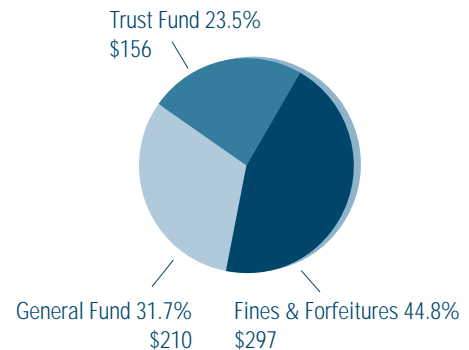
The State Trial and Appellate Court Budget is 1.5% of the Total State Budget. (Funding in millions)



The State Appellate Court Budget Breakdown



The State Trial Court Budget Breakdown



*Includes state portion of trial court funding.

Justice Depends on County Budgets

Many inequities in the quality of justice available to Californians are the direct result of the state's current bifurcated funding system. Under this system, counties share funding obligations with the state. In fact, counties provide the *majority* of court funding. For example, in 1995–96, the Judicial Council submitted a budget of \$1.7 billion for the trial courts. The Legislature, however, appropriated only \$663.3 million in state funding, with the expectation that the counties would provide the rest of the funding needed by the individual courts. But not all counties are able or willing to provide the amount of additional funding needed to support courts within their boundaries. *No county is funding the trial courts at the level requested by the Judicial Council.* Moreover, according to the California State Association of Counties (CSAC), many counties will not be in a position to sustain *prior* funding levels let alone *increase* funding for the trial courts in the next fiscal year. Clearly, under the present funding system, courts in affluent counties fare much better than courts in less affluent counties, which means that justice is not available equally to all residents of the state.

“If courts must rely almost completely on local largess, with no hope of substantial state support, it will ensure two things,” believes former Chief Justice Lucas. “Justice will not be equally administered across the state and it will become more and more difficult to implement successful statewide

reforms. The basic quality of justice in our state will be threatened.”

CHRONIC UNDERFUNDING

Counties' contributions depend on many factors—the fiscal condition of the county, the county's interpretation of court needs, and local political considerations. Two of the state's largest and busiest counties—Los Angeles and Orange—both financially strapped, announced in 1995 that they cannot maintain court operations due to the

The Many Faces of Justice

Public services vary from county to county as courts come to grips with funding shortages from state and local sources.

Sacramento Superior/Municipal Courts

- ▶ Public service hours have been reduced one hour a day from 8:00 a.m.–5:00 p.m. to 8:30 a.m.–4:30 p.m.
- ▶ Correspondence with the court is delayed by as much as six months.
- ▶ Civil cases took an average of 19 days longer to get to trial in 1995 than in 1994.
- ▶ A motion was filed in a Court of Appeal against this court for failure to process a file in a reasonable time frame.
- ▶ Employees are on a voluntary furlough program.

Stanislaus County Superior Court

- ▶ Public access—including by telephone—has been eliminated after 3:00 p.m.
- ▶ Only sworn jurors are paid.
- ▶ Delays in processing family law judgments are up to 40 days.
- ▶ Family law mediation reviews are provided only to parties who can pay for them.

Inglewood Municipal Court

- ▶ Volunteer attorneys handle small claims cases because judges have been assigned elsewhere.
- ▶ Air-conditioning units frequently fail, causing discomfort for litigants as well as court employees.
- ▶ The courthouse roof is leaking but funding for a new roof is not available.

Orange County Superior/Municipal Courts

- ▶ Faced with drastic cutbacks when the county declared bankruptcy, Orange County courts obtained emergency state funding—Senate Bill No. 99—to avoid having to close before the end of the fiscal year.

funding gap left by the county and the state. Judges in those courts warned the Judicial Council that they may have to close their doors before the end of the fiscal year once funding is depleted.

Courts in other counties face similar crises. A last-minute infusion of county funds helped Alameda County avoid having to lay off 200 of its 750 employees and shutting down 15 of its 80 courtrooms. Despite the added funding, the Alameda County courts experienced cutbacks and layoffs.

Indeed, the majority of California trial courts have been forced to cut staff, services, and public hours and charge for services that once were free. Elsewhere, unpaid staff furloughs have resulted in some courts closing up to 10 days a year while many clerks' offices have had to reduce business hours. Courts in some counties were forced to use trailers for courtrooms, cut back serv-

ices to four days a week, and withhold juror compensation. Even court security is compromised as courts reduce or eliminate bailiff and marshal positions while operating with inadequate perimeter security, placing not only judges and court staff but also the public at risk.

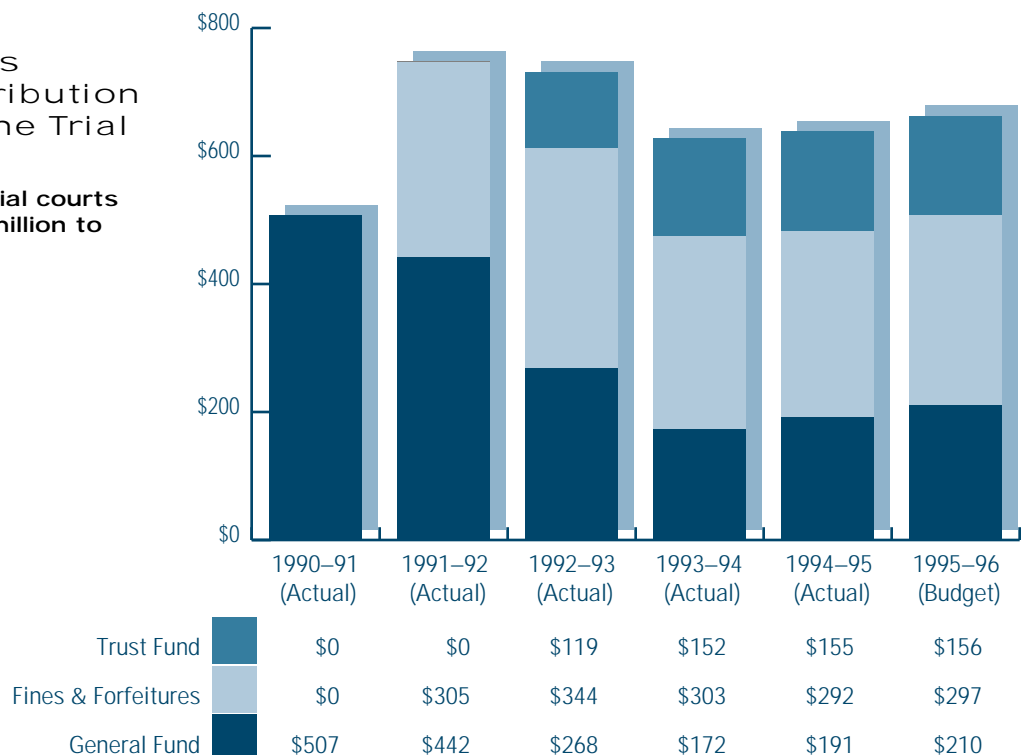
Cutbacks also mean that it takes courts longer to process documents. The ensuing delays lead to further public frustration and loss of confidence.

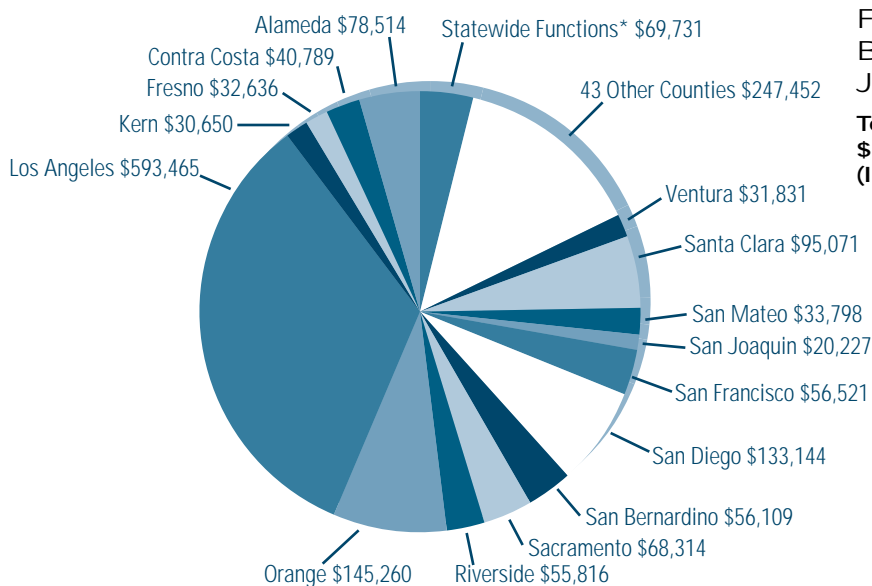
Challenges From "Three Strikes" Law

A major new workload area has been created by the "three strikes" law, which took effect in March 1994. The law doubles the penalties for any current felony conviction if a defendant already has one prior serious or violent felony conviction. It also imposes a minimum penalty of 25-years-to-life for

Reduction of State's General Fund Contribution Towards Funding the Trial Courts 1990-95

State contributions to the trial courts decreased 59% from \$507 million to \$210 million.
(Funding in millions)





Fiscal Year 1996-97 Trial Court Budget Recommended by the Judicial Council

Total Recommended Budget by County = \$1,796,728 (In thousands)

**Includes Judges Retirement Funds (\$54,831) and Assigned Judges Program (\$14,900).*

Note: County totals exclude each county's share of \$7.4 million for information technology studies and municipal judges benefits, which have not been allocated by county.

any current felony conviction if a defendant has two or more prior serious or violent felony convictions. The law also requires defendants convicted under it to serve 80 percent of their time before release instead of 50 percent as required for these and other cases before the law was passed.

The immediate impact of the law has been to dramatically increase the number and length of jury trials in many counties. In addition, the law is placing huge demands on judges' time. Some of the additional workload caused by the "three strikes" law is more difficult to measure. For example, the Santa Clara County criminal clerk's office reported that during the first month after the law took effect, the clerk's office received 639 requests from the district attorney's and public defender's offices as well as other California counties for copies of documents related to defendants' prior convictions. This is an increase of 141 percent over the month before the law took effect. Many of the requested documents are located in

files that are no longer stored on site, further expanding the court's workload.

While the impact of this law has been uneven across the state (see *Section II: Trial Court Report*), the added workload resulting from the law is exhausting resources in courts that serve large populations. "If the people and the state want three strikes then we say that's fine, but they have to realize that we need 'x' number of resources," Los Angeles Superior Court Presiding Judge Gary Klausner told the *California Journal*. "Without those resources, courts will fail many of those seeking justice in the civil area."

"We have a justice system that in terms of its financial, physical, and human resources has been stretched to the limit," warns the report *Impact of the Three Strikes Law on the Criminal Justice System in Los Angeles County*. "Without some level of relief in the immediate future, we will continue to see a rapid decline in both the quantity and quality of justice system

Three Strikes: The View From Los Angeles

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Among the court systems hardest hit by the “three strikes” law is Los Angeles County—which handles more than *one-quarter* of all criminal felony filings in California. The impact has been documented by the Countywide Criminal Justice Coordination Committee, which in November 1995 released *Impact of the Three Strikes Law on the Criminal Justice System in Los Angeles County*. It reported that while the Los Angeles Superior Court has responded “with tremendous elasticity,” has made “innumerable adjustments and accommodations” to bolster the structure where possible, and has created ways “to stretch our shrinking county resources through creativity, sacrifice and cooperation . . . it is inescapably clear that major cracks are leading to serious and unacceptable breaches in our system of justice.”

The court estimated 6,400 new second-strike filings in 1995 and 2,500 third-strike cases. Moreover, there are over 8,000 cases awaiting trial, and 2,000 of these are strike defendants in custody longer than 60 days. And, despite the fact that more than 30 percent of the court’s civil judges are now routinely hearing criminal matters, the court is failing to keep pace with its incoming workload. As a result, branch courtrooms in Pomona, Long Beach, and Torrance are unable to hear civil cases at all. Even though the court is operating 113 dedicated criminal courts in 12 districts, it is unable to process its criminal workload in a timely manner. “The introduction of Three Strikes cases has placed a demand on the court that cannot be met within its existing resources,” concludes the study.



the quantity and quality of justice system services.”

“THREE STRIKES” CASES HIKE COURT COSTS

Many courts are reporting increased spending for:

- More preliminary hearings.
- More frequent and longer trials.
- More jurors for the additional trials.
- More court reporters and interpreters.
- More court transcripts.
- More security in courtrooms not designed for criminal matters.

1995–96 Trial Court Funding: Failed Intent

The hope of improved state funding for the trial courts and the major advancements in court administration that such funding would produce went unrealized for another year.

■ The Trial Court Realignment and Efficiency Act of 1991 envisioned 70 percent of state funding for trial courts by fiscal year 1995–96. Unfortunately, the state’s contribution was less than 35 percent for this period.

■ Despite the caseload expansions of the last decades, not a single new judgeship has been created since 1987. To help courts keep up with population and caseload growth, the Judicial Council in 1995 asked the Legislature for 61 new judgeships statewide but none has been approved to date.

■ Court security is another key issue. Not only judges and court staff but litigants,

witnesses, jurors, and the public must feel

secure in the courthouse. Although the

Judicial Council has adopted stan-

dards for court security effective

as guidelines for 1996–97 and in

force for 1997–98, funding

for the minimum stan-

dards is uncertain.

Former Chief

Justice Malcolm

M. Lucas in 1995

warned in speech-

es to the California

Judges Association and

the State Bar of California

that financial shortfalls

“threaten the very viability of

court operations in counties across

the state.” He called for stable, adequate

funding “in every court in every county,”

emphasizing that funding for the courts is a

responsibility that “the state must and

should bear.” This vision is being advanced

by the Judicial Council for 1996–97.

HOW PUBLIC SERVICES SUFFER

Due to funding shortages, courts in many counties are forced to cut basic services to the public. Some have closed public counters earlier or closed their doors one whole day a week. Other cutbacks include reductions in jury fees and bailiff services. Following are examples of reduced services that courts have reported to the Administrative Office of the Courts.

The Judicial Council in

1996 sponsored Senate Bill

No. 99, which the Governor

and the Legislature approved,

for \$25 million in

supplemental state funding

for trial court operations

during fiscal year 1995–96.

This amount, a reinstatement

of funding that was

eliminated from the trial

court funding budget last

year, is to be matched by

the counties, resulting in

approximately \$50 million

in additional funding.

Court Security

A large-county court struggling with inadequate weapons screening equipment has reported:

- Two shootings—one fatal—by litigants inside the courthouse.
- Bomb threats.
- Prisoner escapes from court facilities.
- Threats against judges.

A medium-sized-county court:

- Needs more deputies in order to transport and supervise an increased number of criminal defendants inside the courthouse.
- Cannot afford bailiffs for many courtrooms handling domestic relations cases, which are among the court system's most volatile matters.

Family Court

A small-county court:

- Cannot afford to hire a family court investigator for 6 months.
- Cannot set a matter for hearing in less than 4–6 weeks.

A large-county court needs:

- Six new positions to handle an increased number of mediation and conciliation cases.
- Six new positions to handle an increased demand for child custody evaluations.

Jury Services

A large-county court:

- Absorbed reduction in jury services of \$200,000.
- Swore in 75 percent more jurors in 1995 than the year before.

Higher Demand for Jury Trials

One of the most serious impacts of the “three strikes” law, according to some courts, has been the increase in the number and length of jury trials and the necessary re-assignment of courts’ civil resources—judges, staff, courtrooms, jurors, security—to the criminal arena, causing delays and backlogs on the courts’ civil calendars.

Prior to “three strikes,” fewer than 5 percent of felony cases went to trial statewide largely because more defendants agreed to plea bargain a lesser sentence. But as defendants with a third strike and even a second strike contemplate dramatically longer sentences, many are insisting on trials.

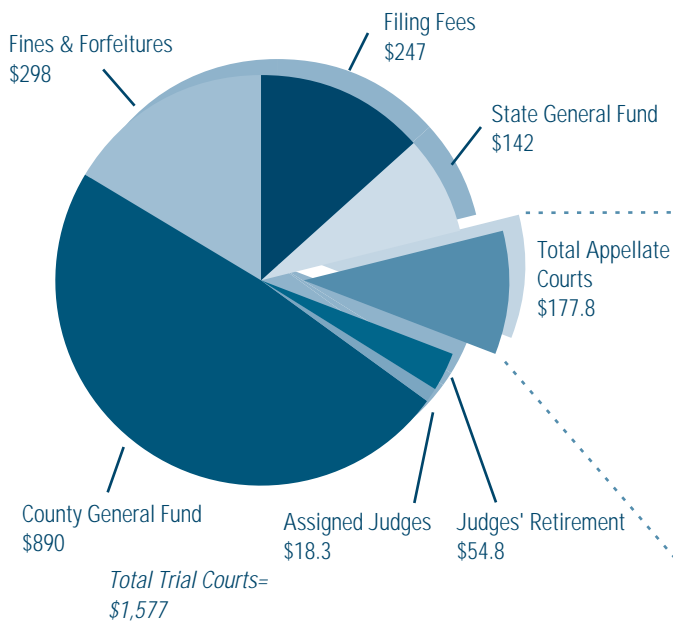
Los Angeles County Superior Court* reports that its trial rate for strike cases is at least three times that of nonstrike cases. The court states that since 1994 it has seen jury trials escalate 25 percent—almost half of which were strike cases. Criminal trials also tend to last longer now that “three strikes” defendants have no incentive to plea bargain or speed up their cases.

San Diego County’s* criminal trials rose 32 percent. In calendar year 1995, 50 percent of “three strikes” cases went to trial compared with 3 percent of nonstrike cases. Thus, even that county—which has set up three departments in which three judges work full time on less complex third-strike cases—is confronting a backlogged crimi-

nal calendar. Criminal inventories jumped 47 percent in the first full year of “three strikes.”

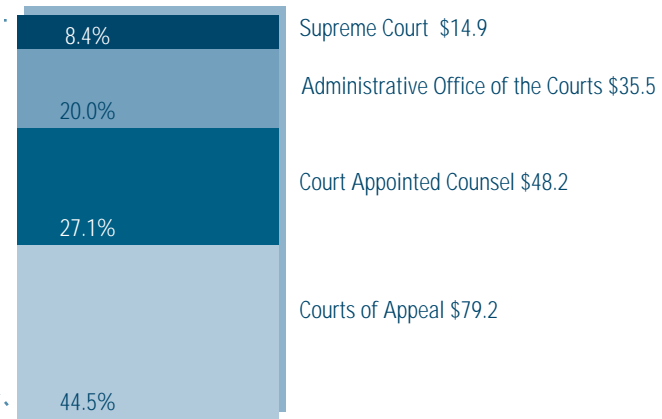
Laboring to keep up, the court borrows municipal court judges and transfers civil judges to the criminal department. Under a coordination agreement, municipal court judges countywide have been assigned to hear superior court criminal cases. The court also brings in retired judges—two of whom now are regularly assigned to criminal cases downtown.

* The numbers provided by these courts cover various time frames and are not necessarily fiscal year data, as are provided annually to the Administrative Office of the Courts.



Governor's Proposed FY 1996-97 Funding for the Judicial Branch

Total Budget \$1,828
(Funding in millions)



- Mailed almost double the number of jury questionnaires to meet the increased demand for jury trials.

Failing Technology

Two large-county courts report:

- Frequent computer breakdowns that cause delays in adjudication and collection of fines/forfeitures.
- Out-of-date imaging systems they cannot afford to replace.

Trial Court Funding 1996-97: A Vision for Stability and Fairness

The Judicial Council is working to bring long-needed stability to trial court funding by supporting the Governor's proposals to:

- Consolidate all funding at the state level and give the state responsibility for future growth in court funding.
- Increase state funding for the trial

courts for fiscal year 1996-97.

- Allocate funding for a "Three Strikes Relief Team" comprising trained retired judges.

■ Expand the council's Judicial Assignments Program, which sends active and retired judges to courts around the state that have an urgent need for judicial assistance.

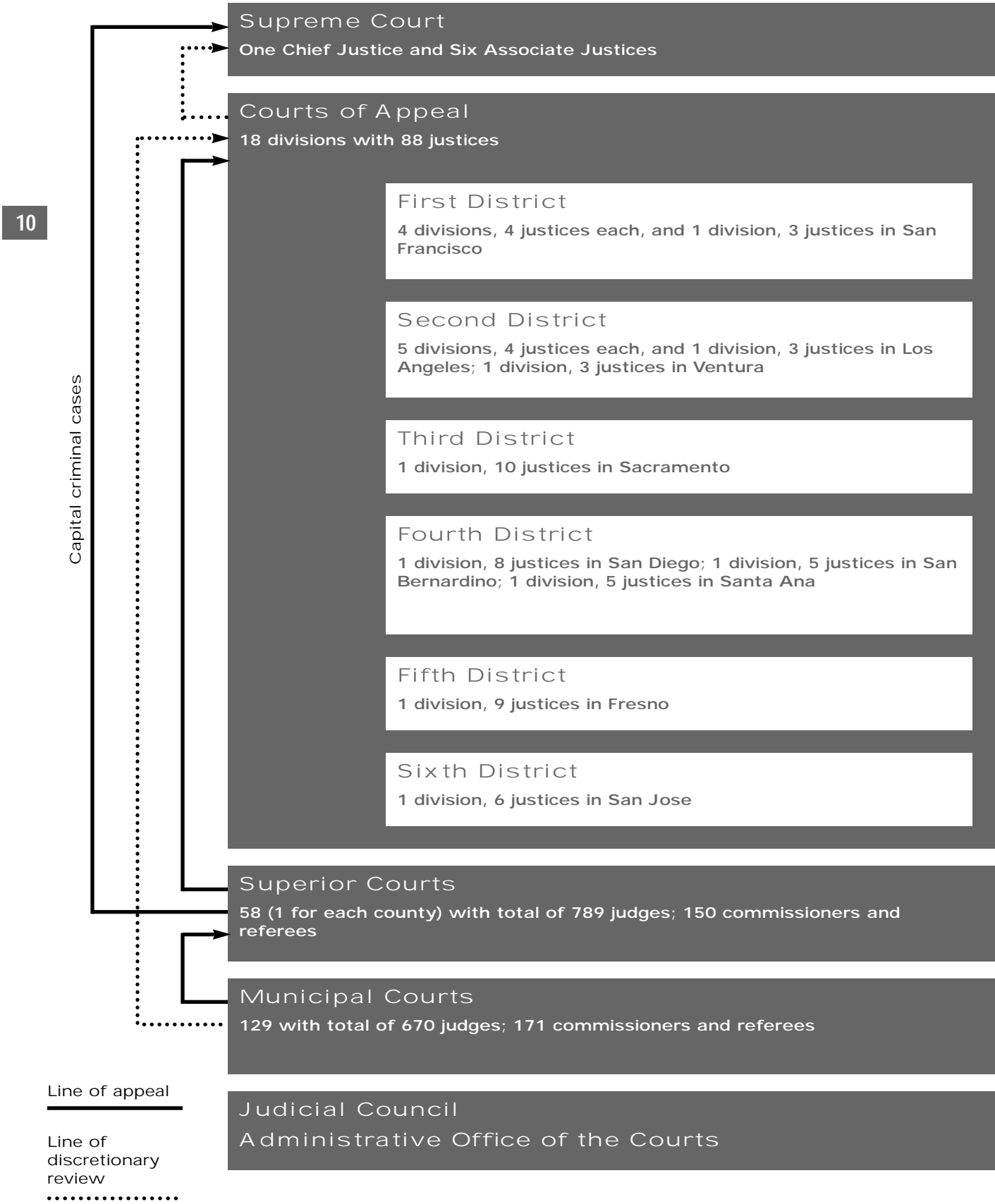
■ Retain county responsibility for ensuring adequate court facilities.

■ Expand the authority of local courts to contract for goods and services.

■ Allow counties to collect court fines, fees, and forfeitures while maintaining courts' authority to ensure enforcement of court orders.

In addition, the council is working to create an adequate number of new judgeships that would be allocated to courts according to a Judicial Council priority ranking.

California court system





All case filings are not created equal. California trial courts reported nearly 9 million filings during 1994–95. Each constitutes a demand for court time, space, and staff. Moreover, in family and juvenile matters, a large number of filings result in numerous court appearances and actions that are *not counted* as separate filings.

To understand how much of courts' precious resources are expended on a particular filing, one must consider *the type of case* the filing represents. According to court data collected from five states by the National Center for State Courts, serious matters involving a felony, personal injury, or child dependency consume double or triple the amount of judge time required by a less serious filing such as a traffic infraction or an uncontested divorce, and they devour more administrative resources. In California, traffic infractions totaled 4.8 million in the last fiscal year, thus constituting more than half of court filings. These cases demand only a small fraction of judge time but substantial staff time. Felony cases, on the other hand, represent about 5 percent of filings yet they may consume more than a third of judge time.

Drugs, gangs, generational poverty cycles, troubled

families, new laws, and a population that has roughly doubled

since 1970 are filling trial court calendars with burdensome,

demanding caseloads.

Unfortunately, ongoing social and

economic changes suggest no alleviation

in the volume and complexity of cases.

Trial Court Report

According to the National

Center for State Courts,

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double or triple the amount

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administrative resources.

While the core of court business concerns the resolution of differences between parties, courts also perform a multitude

of functions beyond dispute resolution.

For example, they authorize

arrests, grant warrants for

searches and seizures, order

temporary restraining

orders, and perform

other functions relat-

ed to the adjudication

process. In addition, courts

perform many routine adminis-

trative tasks, such as creating and

maintaining records, probating wills,

and handling petitions for name changes.

While these functions do not require significant attention by judges, they do claim substantial staff time and administrative services.

In addition, court work increases significantly when litigants, for economic and other reasons, process their cases without

attorneys. These litigants, known as *propria persona* (or *pro pers*), require judges and court staff to spend more time with them because they are not familiar with court processes and procedures. *Pro per* litigants often do not know how to file a case, where to file a case, or how to fill out court forms. As a result, court clerks and judges must spend more time answering questions, explaining procedures, and preparing paperwork. In family relations cases, which are among the court's most complicated in both legal and human terms, from 50 to 70 percent of people go to court as *pro pers*.

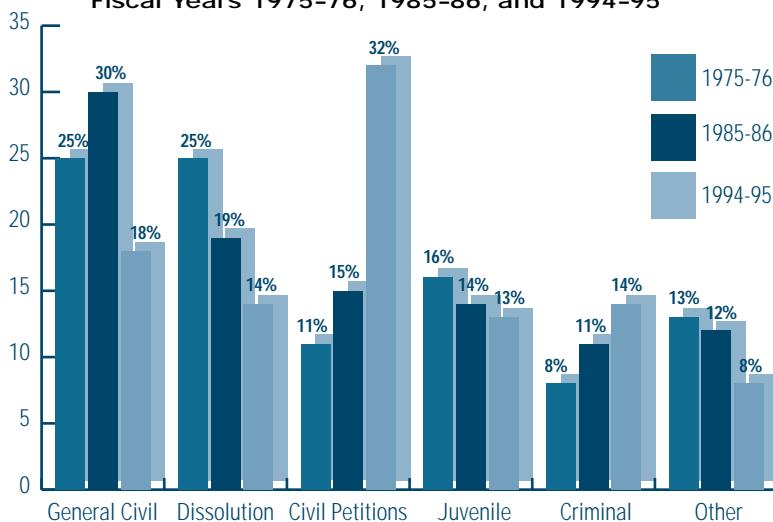
1994–95 Workload Summary

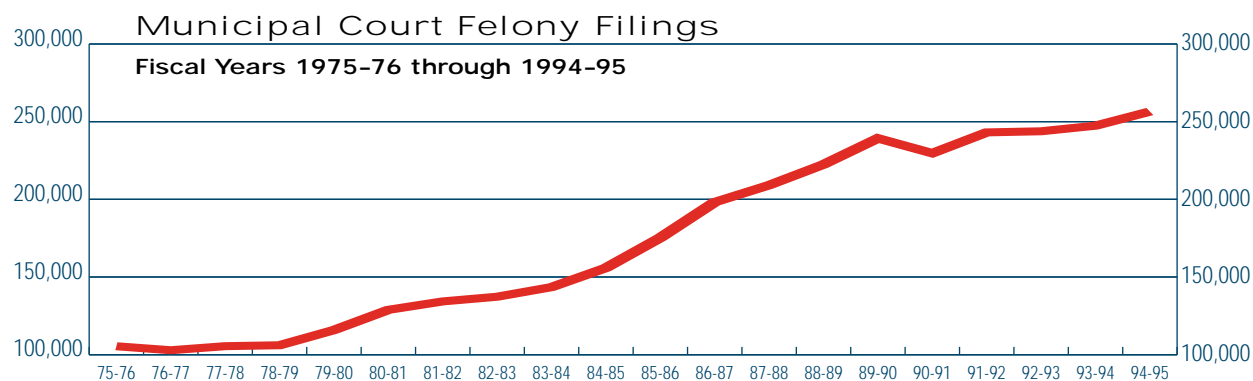
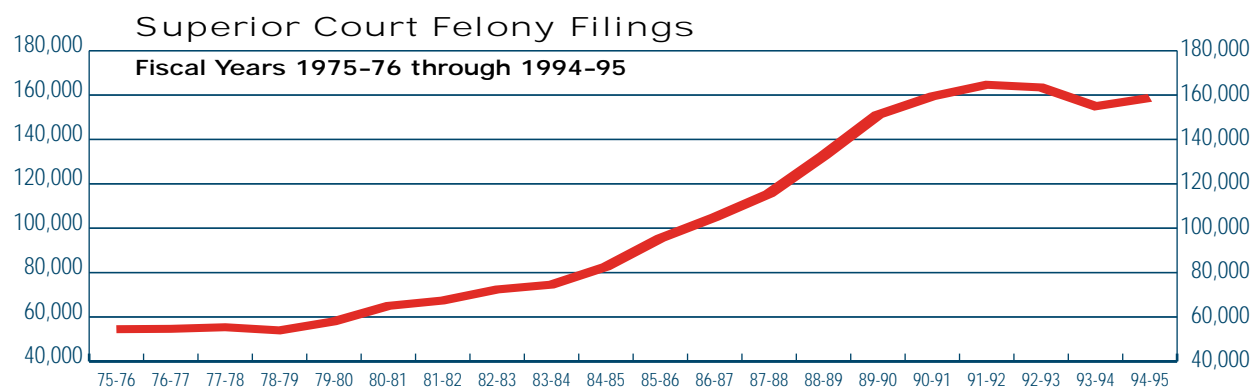
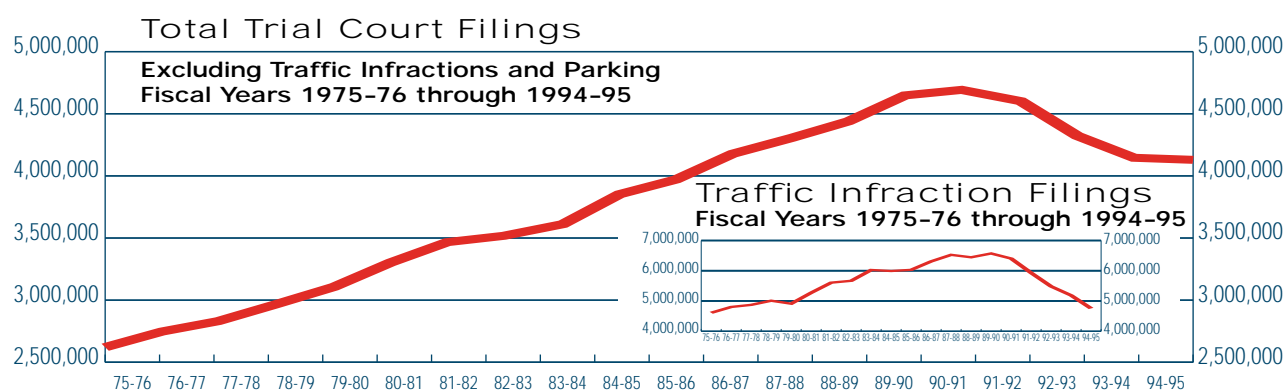
In addition to having trial jurisdiction over all felony cases and all serious civil matters involving over \$25,000, the superior court serves as probate court, juvenile court, and family court. Municipal courts are the trial courts below the superior court level that handle criminal misdemeanor and infraction cases, civil cases involving \$25,000 or less, and small claims matters not exceeding \$5,000. In addition, municipal courts preside over preliminary hearings in felony cases to determine whether there is reasonable and probable cause to hold a defendant for further proceedings in a superior court.

NEARLY 9 MILLION FILINGS

During 1994–95, the superior courts reported 1,126,183 filings, up 5 percent from the year before, and the municipal courts reported 7,755,940 filings, a 6 percent decline. Together the trial court filings

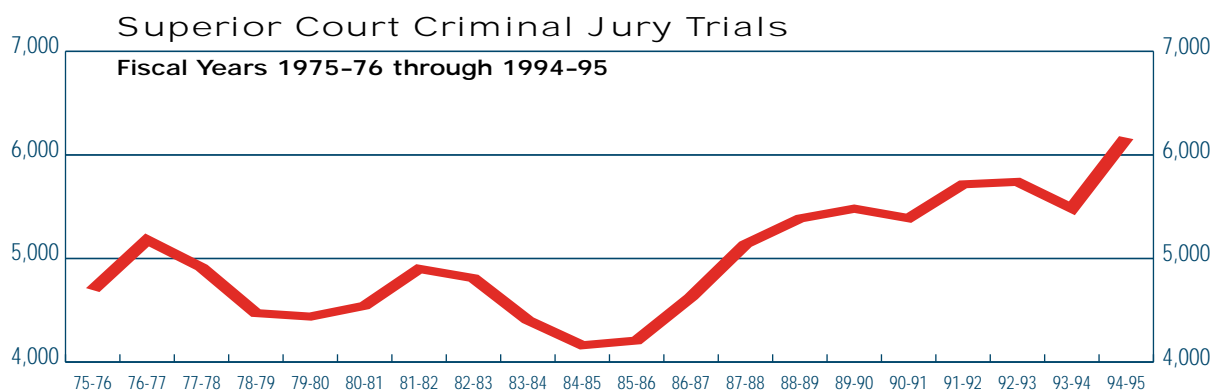
Superior Court Caseload
Composition by Fiscal Year
Fiscal Years 1975–76, 1985–86, and 1994–95





totaled nearly 9 million. The 5 percent decline in total trial court filings from the year before is due to continuous drops in municipal court filings as a result of annual decreases in the largest municipal case category—nonparking traffic infractions. That category, which has plunged by 1.8 million cases since 1990, saw an 8 percent decline

during 1994-95. Municipal court filings in other major traffic case categories also fell. Group C traffic misdemeanor filings (cases involving hit and run with property damage, reckless driving causing injury, and DUI) fell 10 percent and Group D (all other traffic misdemeanors not included in Group C) dropped 9 percent. A possible explanation



for the drop may be that law enforcement personnel and prosecutors are focusing attention on felony cases.

Criminal Cases Surge

In *both* superior and municipal courts, felony filings continued to rise and represent a growing segment of court workload. Criminal caseloads have grown 53 percent in

the past 10 years and 160 percent during the past 20 years.

In 1994-95, superior court criminal filings grew 2 percent to 158,722 cases and municipal court felony filings rose 4 percent to 256,522 cases. Their combined felony filings have risen dramatically over the past two decades.

Superior courts also disposed of 151,301 criminal matters in 1994-95, 2 percent more than the year before. The municipal courts disposed of 4 percent

more felonies—a total of 231,962 (including felonies reduced to misdemeanors).

The most resource-intensive matters on a superior court's calendar are jury trials, especially criminal jury trials. In 1994-95, there were 6,167 such trials in superior courts—a jump of 12 percent from the previous year, which a large number of courts attribute to the “three strikes” law.

AOC SURVEY REVEALS IMPACT OF “THREE STRIKES”

The Administrative Office of the Courts in 1995 conducted the first of a series of court surveys to measure the impact of the “three strikes” law on trial court workload (*see also Section I: Court Perspectives*).

The survey shows that the effects of the law vary widely from court to court, reflecting, courts say, diverse approaches toward shifting resources and different prosecutor policies regarding prior offenses. It also suggests that the law is more likely to boost workload in larger courts than in smaller courts. In addition, the survey indicates a 6 percent increase in the proportion



of superior court judicial resources allocated to criminal cases, which has produced a corresponding decrease in resources for civil cases. Higher trial rates and jury panel sizes were also reported. According to a draft report from Los Angeles' Countywide Criminal Justice Coordination Committee, the "three strikes" law "has pushed the jury services system from crisis to the breaking point."

Other findings:

■ Twelve superior courts that account for 70 percent of the state's criminal workload estimated an overall workload increase of 10 percent or more; two of these courts estimated a 25-50 percent increase.

■ Municipal courts reported higher preliminary hearing rates for strike cases than non-strike cases, as follows: non-strike, 37 percent; two-strike, 70 percent; three-strike, 83 percent.

■ Courts reported higher trial rates for strike cases than for nonstrike cases. For the superior courts, the median trial rate was: 4 percent for *nonstrike* cases, 15 percent for *two-strike* cases, and 45 percent for *three-strike* cases.

■ Superior courts reported an overall increase in the size of criminal jury panels.

Kern County reported a 25 percent increase and Tulare County reported a 40 percent increase.

Civil Filings Up, Jury Trials Down

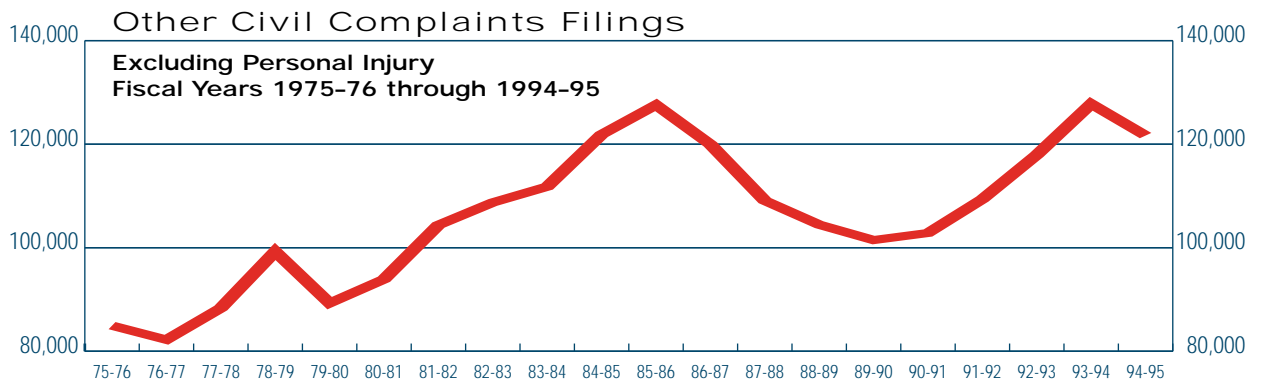
Altogether, civil filings in the superior courts rose 7 percent to 782,192 in 1994-95. This increase, however, is due to only one civil

case category—Other Civil Petitions—which jumped 24 percent. (The majority of these petitions involve family relations such as child custody and child support matters.) Filings in all other civil categories actually decreased during the year.

"Three Strikes and You're Out" law doubled the penalties for any current felony conviction if a defendant already has one prior serious or violent felony conviction. It also imposed a minimum penalty of 25-years-to-life for any current felony conviction if a defendant has two or more prior serious or violent felony convictions. The law also requires defendants convicted under it to serve 80 percent of their time before release instead of 50 percent.



The leap in criminal jury trials caused many courts to reassign needed civil resources to criminal dockets, which appears to have caused the decline in civil jury trials. Personal injury jury trials fell 14 percent from 2,090 to 1,800 trials in 1994-95 and other civil jury trials dropped 13 percent from 1,600 to 1,394. Not all of this decline is due to "three strikes," however. The number of personal injury trials peaked in 1991-92 and has continued to decline every year since.



COMPLEXITY OF CASES INVOLVING CHILDREN AND FAMILIES

The category “Other Civil Petitions,” (most of which involve family relations matters, as described above) has shot up from 292,680 filings to 361,539 in 1994–95. Filings in this category have surged 179 percent during the past 10 years and 373 percent during the last 20 years. These cases are consuming a larger and larger percent of total workload: petitions as a percent of filings totaled 11 percent in 1975–76, 15 percent in 1985–86, and 32 percent in 1994–95.

Family-related issues are difficult and complex matters for the courts. Not only are the issues in dispute sensitive to resolve, but families also often have multiple problems that involve several court departments simultaneously, such as divorce, child custody and support, assault and battery, and juvenile delinquency or dependency.



FAMILY VIOLENCE

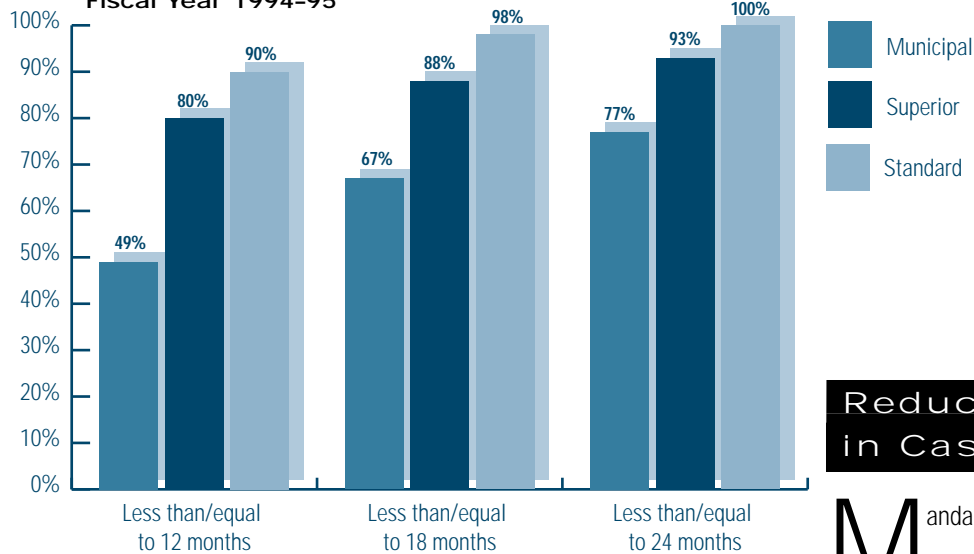
The number of family violence cases filed in the state courts has escalated during the past few years. According to reports counties provided at the 1996 Conference on Family Violence and the Courts, sponsored by the Judicial Council, between one-third to one-half of all battery cases are actually domestic violence matters.

Recognizing the problem of family violence and concerned for the safety of victims, some courts have established specialized departments to handle domestic violence cases. The Judicial Council's family violence conferences in 1994 and 1996 convened county teams of judges, prosecutors, and family violence professionals. Some

learned for the first time about the magnitude of the problem, its causes and effects, and the urgent need for remedies. Since then, almost all counties have formed family violence coordinating councils or are in the process of creating

General Civil Case-Processing Time

Fiscal Year 1994-95



Reducing Delays in Case Processing

Mandated statewide delay reduction programs have been operating in all state trial courts since

them, and these councils will lead the court communities in a coordinated response to this pressing problem.

JUVENILE DEPENDENTS:

WHEN COURTS MUST INTERVENE

Another concern for the courts is the growing number of cases involving juvenile dependency—children who become dependents of the courts because of abuse or neglect by their parents. Poverty, drugs, dysfunctional family structures, births to unmarried teenaged girls, and absent fathers account for the growing number of children in whose lives the courts must intervene. The courts work to provide a safe environment for these children and for keeping the families together when possible; and if a family cannot be kept together, the courts must try to provide a stable and permanent home for the children.

As a result, judges and commissioners often hear more than 30 dependency cases a

July 1992. The Legislature in 1986 enacted the Trial Court Delay Reduction Act, which makes judges rather than attorneys responsible for guiding cases through the system. The elapsed time to trial has dropped significantly in recent years.

For fiscal year 1994–95, the superior courts reported that 77 percent of civil filings were disposed of in two years or less from the filing date and 95 percent of criminal cases were disposed of in one year or less.

Municipal courts disposed of 90 percent of felony cases in 90 days or less, 93 percent of misdemeanor cases in 120 days or less, 93 percent of general civil cases in 2 years or less, 75 percent of unlawful detainers in 45 days or less, and 85 percent of in-county small claims cases in 90 days or less.

In his 1996 State of the Judiciary Address, Chief Justice Ronald M. George hailed the state's delay reduction program as a success but noted that the program has been compromised recently "in an unmistakable way." Pressure from "three strikes" cases "has pushed civil matters further and further back in line."

Families in Mediation: Violence Allegations Are Common

18

Because California law requires parents who cannot on their own settle a dispute over child custody or visitation to participate in mediation before they can obtain a court hearing, the superior courts must provide mediation services. More than 73,000 mediation sessions are held in a year. An increasing number of custody disputes involve parents who have never been married and more than half of all cases include at least one client who is not represented by an attorney. Many families return to court again and again for modifications of previous custody and visitation orders or for changes in child support agreements.

According to studies by the Statewide Office of Family Court Services/Administrative Office of the Courts, half of the child custody mediation caseload involves allegations of family violence, often accompanied by counter claims of child neglect and abuse or substance abuse. The children in these violent families number over 50,000 a year. Most of them have witnessed violence between their parents. Child Protective Services has investigated a third of these violent families. Despite the complexity of their issues, most of the parties in these actions appear in pro per (have no legal representation).

- In up to 60 percent of all child custody mediation cases, at least one party reports that a domestic violence restraining order (TRO) is now or has been in effect to prevent one party from coming near the other.
- In 78 percent of families with TROs, mothers and fathers agree that their child has witnessed violence.
- In 10 percent of TRO cases, mothers state that fathers neglect or physically abuse the child.
- 17 percent of fathers in TRO cases claim that the mother neglects the child and 8 percent say that she abuses the child physically. 22 percent of mothers and 11 percent of fathers in TRO cases say that the other parent abuses alcohol; 20 percent of mothers and 17 percent of fathers claim the other parent abuses drugs.

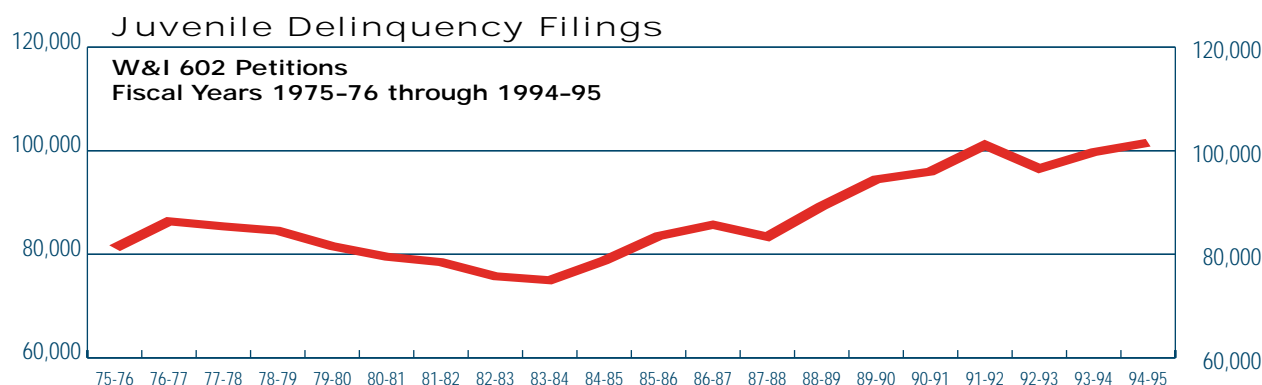
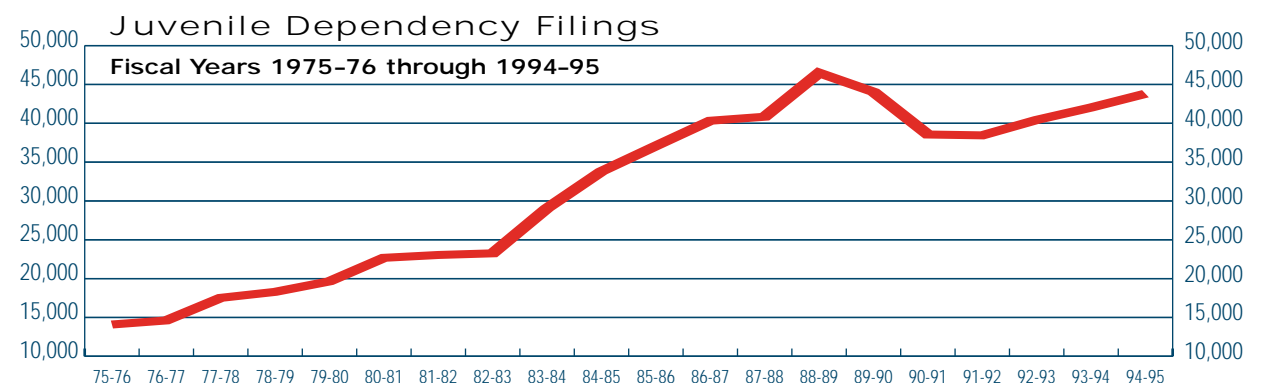
day, making extremely difficult decisions about whether or not to remove children from their homes due to abuse, neglect, violence, or substance use. The Los Angeles County Superior Court alone supervises some 60,000 such children at any time; about 2,000 enter that foster system each month. According to the report of the Commission on the Future of the California Courts—*Justice in the Balance: 2020*—the number



of reported child abuse cases has catapulted nationwide during the last decades but California accounts for one-fifth of all child abuse or neglect cases in the United States. Indeed, the Legislative Analyst's Office reports that the state has the highest rate of reported child abuse and neglect among the 10 largest states (76 per 1,000 children). "The abuse and neglect of children is a serious problem in California," according to the Legislative Analyst's Office. "Foster care case-loads have increased from about 33,000 in 1984 to 90,000 in June, 1995—a 170 percent increase."

During 1994–95, juvenile dependency filings in the state courts climbed another 4 percent to 43,807 cases in 1994–95 and they have *risen 211 percent* during the past two decades.

Cases involving child abuse and neglect are among the most complex and time-consuming for the courts, and given today's socioeconomic realities, these case-



loads are sadly forecast to continue to expand with the next generation.

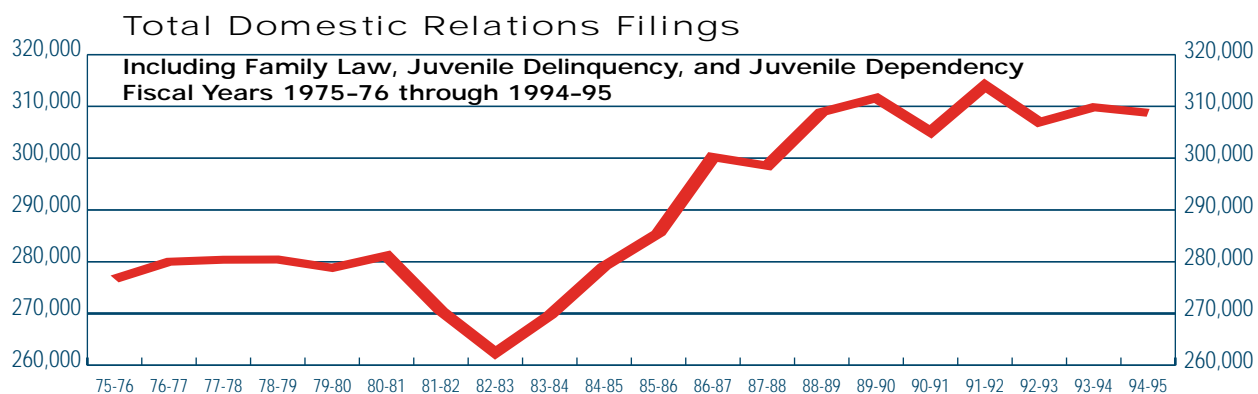
STEADY RISE IN JUVENILE DELINQUENCY CASES

Another very complex and time-consuming workload area for the superior court is juvenile delinquency. Children under age 18 who have committed criminal acts are supervised by the court, which has the dual responsibility to protect the public and help rehabilitate the minor. Once the court has jurisdiction over a minor, its jurisdiction may be extended until the youth turns 21 years old and in some cases until age 23. Depending on the seriousness of the crime, the court can order the juvenile to be placed in a secure institution for juvenile offenders, or placed on probation, or ordered to perform

community service or to pay a fine. The court also can order the youth to be sent to a halfway home or other program.

Cases involving juvenile crime, especially serious crimes such as murder, rape, and burglary, constitute a workload pool that ebbs and flows with the changing population of adolescents.

In 1994-95, serious juvenile delinquency filings (W&I 602) grew 2 percent to 101,547 cases, and over the past two decades the number of filings has jumped 25 percent. The ages 10 to 19 are considered the most crime-prone years, especially for boys. Considering the huge increase expected this decade in the number of juveniles of that age group, juvenile filings are forecast to jump even higher.



Moreover, current filings do not completely represent juvenile crime because a significant number of juvenile delinquency cases increasingly are handled in adult court. Also, a large number of cases involving less serious crimes are handled outside the courts through informal probation and local law enforcement early intervention programs.

Another new challenge faced by courts today is the growing number of children under the age of 12 who commit violent criminal acts. Courts are searching for appropriate dispositional alternatives focusing on both accountability and rehabilitation.

Courts Need More Judges

Since 1987, the superior courts have seen no increase in their 789 authorized judgeships and the municipal courts made no gains in their 670 judge positions. In fact, trial courts often have operated with even less than the authorized number of judges because many positions have been vacant awaiting appointment by the Governor. As of January 1996, three superior court vacancies and 10 municipal court vacancies remained unfilled. Under the Governor's proposed 1996-97 budget, 20 new judgeships would be created along with funding for a "Three Strikes Relief Team" and for the expanded use of retired and active judges to serve courts that have an urgent need for judicial assistance.



he Supreme Court of California, with seven justices, and the Courts of Appeal, with 88 justices, constitute the appellate courts for some 31 million Californians. Together, these courts recorded more than 28,000 filings in 1994–95.

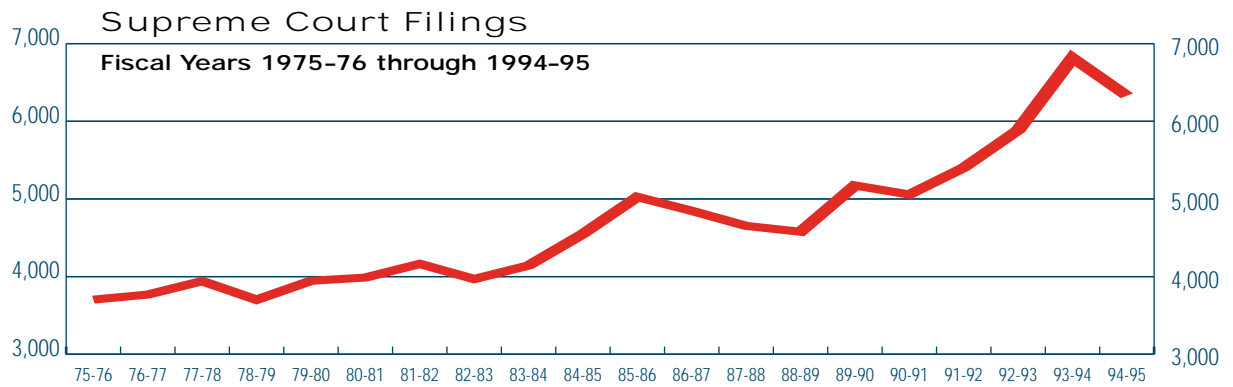
Under the California Constitution and other law, a person may appeal a decision of a superior court to the Courts of Appeal. The Supreme Court is constitutionally required to review all death penalty judgments from the superior courts. In addition, parties may seek review of Courts of Appeal decisions. The Supreme Court has discretion as to which noncapital cases to accept. Generally, the cases it accepts for review are those in which there is an important question of law or there are conflicts in the decisions of the Courts of Appeal. The court spends substantial time deciding which cases to accept. Once review is granted, the Supreme Court's decisions are binding on all appellate, municipal, and superior courts.

The role of the appellate courts, especially the Supreme Court, is to preside over the orderly development of the law. This is accomplished through written opinions that guide lower courts in applying the law and provide interpretation when necessary. The appellate courts accordingly must devote considerable time analyzing legal issues in the cases before them and preparing a written opinion to set forth the basis for decision. The time required to accomplish this task varies due to the complexity of the individual case and factors such as whether the relevant legal issues are governed by settled law or present novel questions.

As in the trial courts, filings in the appellate courts have grown more numerous and complex.

Civil appeals span a broad range of law, and death penalty cases present many serious issues.

Appellate Court Report



Supreme Court Workload

Supreme Court filings *have nearly doubled* during the past 20 years, growing from 3,704 filings to 6,329 during 1994-95. Filings jumped 25 percent during the last five years alone.

The Supreme Court received 4,254 petitions for review of Court of Appeal decisions in fiscal year 1994-95 and 1,564 original proceedings (petitions for writs such as mandamus and prohibition). In addition, 30 death penalty (automatic appeals) cases were filed as were 29 habeas corpus petitions related to automatic appeals. The court issued 97 written opinions, compared with 99 the previous fiscal year.

CHALLENGING CIVIL CASELOADS

Complex civil appeals require comprehensive and thoughtful analysis by the Supreme Court. A civil appeal accepted for review by the high court is by definition difficult and time-consuming to resolve because the court accepts only cases that pose important issues of statewide concern and that, quite often, have elicited conflicting responses from the Courts of Appeal. The Supreme Court's opinions often encompass a broad review of the law and develop comprehensive guidelines for lower courts to follow.

The Supreme Court issued a number of significant civil opinions in 1995. For example, it defined the power of courts to reform legislation or initiatives to uphold their constitutionality (*Kopp v. Fair Pol. Practices Com.*); limited actions for "inverse condemnation" (*Consumer Company v. City of Sacramento*); upheld injunctions setting spatial limitations on protesting near abortion clinics (*Planned Parenthood v. Williams*); limited the right of appellate review of rulings under the Public Records Act (*Powers v. City of Richmond*); found a

Backlog in Pending Fully Briefed Appeals

Year	Cases	Per Justice
1990-91	3,965	45
1991-92	4,394	50
1992-93	4,971	56
1993-94	5,100	58
1994-95	5,562	63

The number of cases in backlog per justice increases annually.

country club to be a “business establishment” precluded from enforcing a “men only” membership policy under the Unruh Civil Rights Act (*Warfield v. Peninsula Golf and Country Club*); and defined coverage under liability insurance policies when damage is continuous and extends over successive policy periods (*Montrose v. Admiral Ins. Co.*).

DEATH PENALTY APPEALS

The court now decides four times more direct automatic appeals (death penalty cases) each year than it did between 1970 and 1986.* These cases demand a far greater share of the court’s resources than other cases. They contain many issues for the court to consider and have larger records to review.

In addition to death penalty appeals, the court receives a growing number of habeas corpus petitions related to death penalty cases. Because the court is affirming more capital cases, a larger number of habeas petitions also are being filed. On average, two habeas corpus petitions in capital cases consume as much court time as one average noncapital opinion, yet no written opinion is filed in the majority of these cases. During the past five years, the court has decided an average of 31 capital-related habeas corpus petitions annually. These petitions frequently present scores of issues and often contain hundreds of exhibits.

* *Special Report: Analysis of the Supreme Court’s Workload.*

Death Row*

- ▶ 429 people wait on death row.
- ▶ 125 people are without court appointed counsel.
- ▶ 261 capital appeals are pending in California. Others are pending in federal courts.

**December 1995*

RECRUITING COUNSEL FOR INDIGENTS

ON DEATH ROW

Recruiting qualified counsel for the large number of indigent appellants on death row is a pressing concern for the Supreme Court. As of December 1995, there were 429 defendants on death row, of whom 125 have no counsel. In 1995, counsel were appointed for 26 death row inmates. Because these cases are particularly complex, lengthy, and time-consuming, experi-



enced attorneys are needed to provide effective assistance of counsel.

The workload increase in the Supreme Court has outpaced funding. Despite a 25 percent workload jump since 1990–91, funding for the court has increased 18 percent from \$11.1 million to \$13.1 million in 1994–95. This increase in funding represents an average annual growth rate of just 4.5 percent.

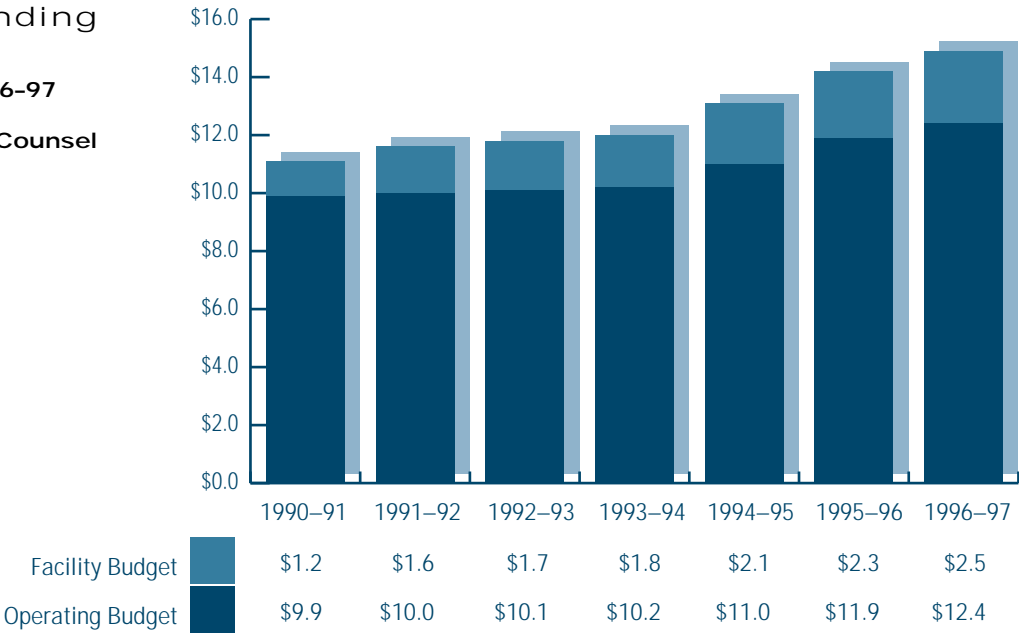
During the past few years, the Supreme Court has introduced a number of measures to recruit qualified attorneys to represent death row appellants, including creating the position of an Automatic Appeals Monitor. The Legislature recently has increased compensation for counsel from \$75 to \$95 per allowable hour. It also has expedited payments to counsel and offered an optional fixed-fee arrangement to streamline the compensation process and eliminate administrative paperwork. Other measures include eliminating appointed counsel’s duty to represent the appellant in federal court on future

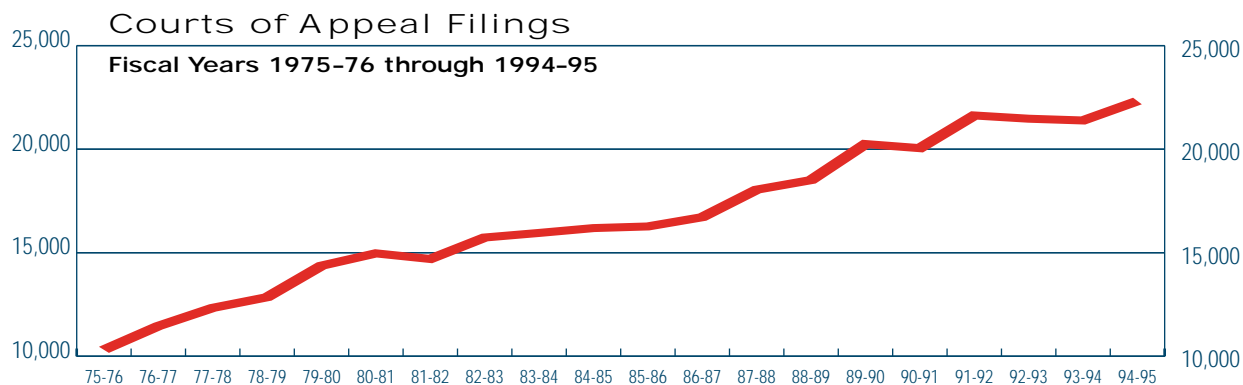
habeas corpus proceedings and providing a training video for court appointed counsel and applicants for appointment. These steps are helping to secure more counsel, but a large backlog of cases remains.

Courts of Appeal Workload

California is divided into six appellate districts with 18 divisions in nine locations across the state. Cases are decided by three-judge panels. The courts’ primary responsibility is to ensure that the law is interpreted and applied correctly and consistently in each appellate district. The courts’ decisions are expressed in written opinions. The number of appellate justices was last increased in 1987 from 77 to 88 justices. Since then, the courts have seen a 24 percent increase in numbers of appeals and original proceedings filed and a 35 percent increase in the number of written opinions.

Supreme Court Funding History
Fiscal Years 1990–91 to 1996–97
(Proposed)
Excluding Court Appointed Counsel
(Funding in millions)



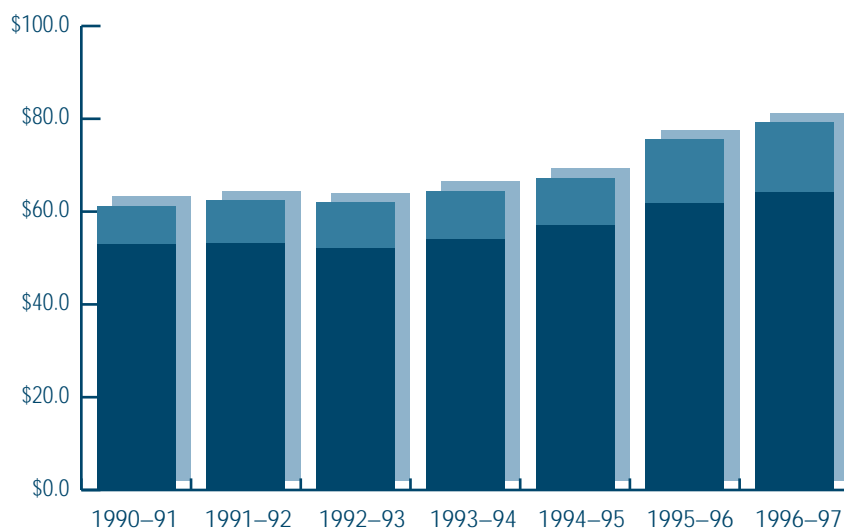


Two case categories experienced large jumps during the last fiscal year: Criminal notices of appeal filed in 1994-95 rose 16 percent from the year before to 8,519; juvenile original proceedings more than doubled, from 171 in 1993-94 to 354 in 1994-95, as a result of a new rule of court (rule 39.1b) requiring certain juvenile proceedings to be filed as original proceedings instead of as appeals, effective January 1, 1995. The new rule establishes a “fast track”

schedule for briefing and deciding these cases in order to resolve the status of a child who has been abused or neglected as quickly as possible.

GROWTH IN PENDING APPEALS

The growing number of pending, fully briefed appeals that are backlogged at the end of the fiscal year is a key measure of the courts’ ability to keep pace with caseload. These appeals may be awaiting oral argu-



Courts of Appeal Funding History

Fiscal Years 1990-91 to 1996-97 (Proposed)
Excluding Court Appointed Counsel
Fiscal Year 1996-97 includes funding and staffing related to the establishment of 5 new judicial positions.
(Funding in millions)

Facility Budget	\$8.4	\$9.4	\$10.1	\$10.5	\$10.3	\$13.7	\$15.1
Operating Budget	\$52.9	\$53.1	\$52.0	\$54.0	\$57.0	\$61.8	\$64.1

Median (50th Percentile) Time in Days

Fully Briefed to Filing of Opinion

Fiscal Years 1990-91 through 1994-95

<i>Courts of Appeal</i>	<i>Civil</i>					<i>Criminal</i>				
	90-91	91-92	92-93	93-94	94-95	90-91	91-92	92-93	93-94	94-95
Statewide	151	145	153	183	179	120	120	107	110	115
First District	140	134	135	154	147	97	89	93	99	98
Div 1	234	191	134	176	157	168	115	93	120	110
Div 2	172	198	198	206	213	154	156	162	154	127
Div 3	121	116	138	150	172	86	97	101	100	98
Div 4	88	103	105	113	127	66	58	59	77	68
Div 5	77	88	83	94	117	64	70	75	81	93
Second District	105	105	117	134	123	70	66	70	75	76
Div 1	83	86	92	91	72	52	56	59	70	61
Div 2	72	78	74	82	81	56	53	50	63	59
Div 3	112	110	174	267	319	73	60	73	86	194
Div 4	136	247	418	438	409	64	64	71	86	82
Div 5	168	117	112	118	99	94	87	87	87	60
Div 6	129	127	140	173	146	89	93	89	79	95
Div 7	79	84	91	89	92	64	68	72	70	75
Third District	260	186	147	133	159	155	154	102	92	114
Fourth District	193	205	245	334	459	143	157	151	169	171
Div 1	181	189	310	368	484	134	148	115	101	96
Div 2	209	295	309	412	449	146	160	180	212	214
Div 3	194	170	182	280	394	150	163	174	268	246
Fifth District	268	297	372	412	278	135	160	154	140	154
Sixth District	151	126	149	216	204	133	99	136	188	164

Filings: Records of Appeal and Original Proceedings Five-Year Percentage Growth

<i>Courts of Appeal</i>	<i>FY 1990-91</i>			<i>FY 1994-95</i>			<i>Percent Change</i>		
	Total	Records of appeal	Original proceedings	Total	Records of appeal	Original proceedings	Total	Records of appeal	Original proceedings
Statewide	20,049	13,024	7,025	22,326	14,923	7,403	11%	15%	5%
First District	3,626	2,352	1,274	3,976	2,607	1,369	10%	11%	7%
Second District	6,701	4,119	2,582	7,293	4,513	2,780	9%	10%	8%
Third District	1,930	1,360	570	2,356	1,735	621	22%	28%	9%
Fourth District	4,701	2,997	1,704	5,436	3,668	1,768	16%	22%	4%
Fifth District	1,818	1,311	507	2,039	1,525	514	12%	16%	1%
Sixth District	1,273	885	388	1,226	875	351	-4%	-1%	-10%

ment but the litigants have completed their briefing and the majority of the remaining work lies with the court. Growth in the backlog of pending fully briefed appeals has been in the 3 to 13 percent range since 1990. Over the past 20 years, the number of appeals and original writs filed has jumped from 10,312 in 1975–76 to 22,326 in 1994–95. Total pending appeals rose 7 percent from 16,630 as of June 30, 1994, to 17,732 as of June 30, 1995.

IMPACT FROM "THREE STRIKES" EXPECTED

Filings are expected to continue to grow in the appellate courts in the years ahead. The "three strikes" law appears to have driven up criminal notices of appeal, which in 1994–95 increased 16 percent to 8,519. The law is likely to cause more complex criminal appeals in the years to come,

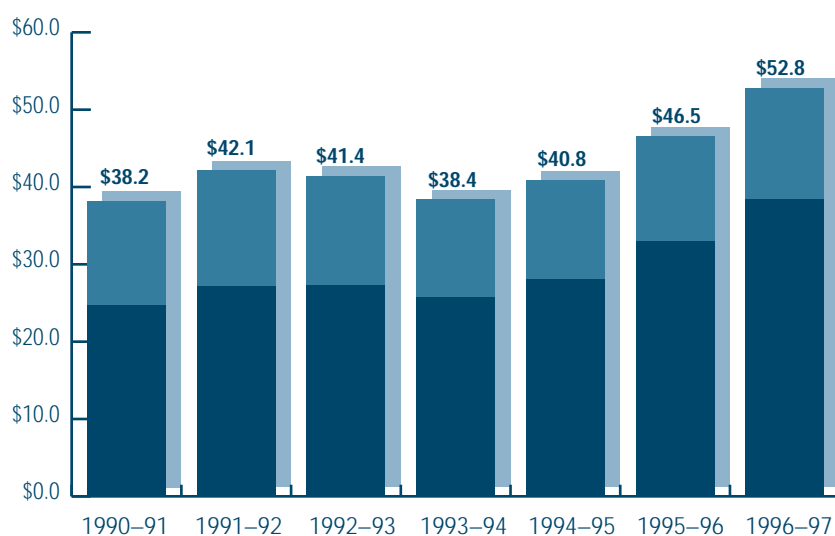
Constitutional Mandate: Counsel for Indigents

The California and United States Constitutions require appellate courts to provide counsel for appellants in criminal felony cases if they cannot afford an attorney. Counsel is also required for indigents in certain civil cases such as juvenile dependency and conservatorship matters.

In order to provide counsel, the courts have created six nonprofit appellate projects serving the six appellate districts and the Supreme Court. They recruit (except in capital cases), supervise, and assist approximately 1,600 private attorneys who accept appointment in approximately 9,500 cases each year.

The courts have limited ability to control the costs of this service because they have no control over the number of cases coming before them or the number of people who require counsel. The appointed-counsel budget, which totaled \$40.8 million in 1994–95, represented 33.7 percent of the total budget for the Supreme Court and Courts of Appeal.

as more second- and third-strike cases are resolved by jury trial rather than by guilty plea. Such appeals consume more appellate time and resources, because there are more



Court Appointed Counsel Program Funding History

Fiscal Years 1990–91 to 1996–97 (Proposed)
Supreme Court and Courts of Appeal
1995–96 budget request cut to 1994–95 level. \$4.5 million projected overrun resulted in deficiency request.
(Funding in millions)

Total	\$38.2	\$42.1	\$41.4	\$38.4	\$40.8	\$46.5	\$52.8
Project Administrator	\$13.5	\$14.9	\$14.1	\$12.6	\$12.7	\$13.5	\$14.4
Private Counsel	\$24.7	\$27.2	\$27.3	\$25.8	\$28.1	\$33.0	\$38.4

potential appealable issues arising from a jury trial than from a guilty plea.

NONJUDICIAL STAFFING

Nonjudicial staffing also has been inadequate to meet the demands of current workloads. A special Working Group established by the Chief Justice recently completed a review of Courts of Appeal workload and made recommendations, which the Judicial Council has adopted, establishing workload standards for the Courts of Appeal. The Working Group proposed, and the Judicial Council approved, a modest combination of additional staff attorney, clerks' office, and support positions and

additional appellate judgeships to fill the most critical needs of the courts at a much lower cost than would have been possible if workload increases had been addressed solely through the addition of new judicial positions.

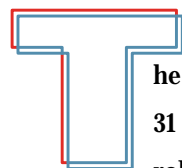
The study found that increasing the number of central staff attorneys ameliorates the shortage of judges. The responsibilities of central staff are to screen cases, identify those considered routine, conduct research, and prepare comprehensive memoranda and draft opinions in routine cases. In addition to the new central staff positions, attorney staffing among the courts was realigned, with positions being transferred from the First, Fifth, and Sixth Districts to the Second District, which has experienced the greatest growth in filings.

Not Enough Judges

The number of judges in the Courts of Appeal has not kept pace with the increase in filings and complexity of caseloads.

- ★ Last time a new appellate judge position was created: 1987.
- ★ Increase in appeals with records from 1990-91 to 1994-95: 11 percent.
- ★ Number of opinions per justice in 1994-95: 132.7.*

* 11,676 opinions divided by 88 judgeships.



The Judicial Council of California oversees a court system that serves more than 31 million people and reported nearly 9 million filings in 1994–95. The council's role is that of central planner and advocate for the courts. It provides a statewide focus to finding solutions to the problems affecting the courts.

Each year, and again in 1995, the council has launched programs and reforms that promise to enhance the delivery of justice through more efficient court administration. Both despite and because of serious funding shortages and workload challenges, state courts are inventing methods to consolidate and streamline operations, with the assistance of the council and its staff agency, the Administrative Office of the Courts.

"We in the judiciary must reach out to the public and be responsive.

To fulfill their constitutional role, the courts must be accessible to the people.

A judicial system perceived to be distant, inaccessible, and unresponsive threatens the foundations not only of the courts but of our government. "

—Chief Justice Ronald M. George, *State of the Judiciary Address*, May 1996

Keeping Courts Accessible

Stabilizing Funding

Both despite and because of serious funding shortages and workload challenges, state courts are inventing methods to consolidate and streamline operations, assisted by the Judicial Council and its staff agency, the Administrative Office of the Courts.

The Judicial Council for years has steadfastly appealed to the Governor and the Legislature to provide courts with enough funding to carry out constitutional obligations and essential reforms. It also has called on the state to dismantle the ineffectual system of state and local funding that destroys stability and accountability. (The California Supreme Court and the state Courts of Appeal already are wholly funded by the state.) (See *Section I: Court Perspectives*.)

Sharing Resources

Few reforms in California judicial history are more crucial and farsighted than trial court coordination. Three years ago, superior and municipal courts throughout the state began a process of coordinating their judicial and administrative resources. The early results are encouraging. “Coordination is a must,” then-Chief Justice Lucas declared in 1995. “It offers a sensible way to put unwieldy pieces of our system together to save money and be more efficient.”

Trial court coordination refers to the sharing of resources between superior and municipal courts within a county or with neighboring counties. The trial courts share, and in some cases merge, judges and com-

missioners as well as court support staff, courtrooms, supplies, and equipment from the two court levels.

Such sharing is helping to reduce court costs and improve court efficiency, which ultimately results in better service to the public. This was the intent of the Trial Court Realignment and Efficiency Act of 1991, which, with the endorsement of the Judicial Council, directed this effort. The law required the courts to reduce operating costs by at least 3 percent the first year (1992–93), and by another 2 percent in each of the next two fiscal years.

The level of coordination achieved by the trial courts varies from county to county. Three years is not enough time to complete such an enormous task. Nevertheless, all 58 California counties have made steady progress toward coordination during this period. The comprehensiveness of coordination programs in the courts has depended on many factors, such as the relationship between the courts and county governments, caseload levels, budget problems, and the number of courts in a county (for example, 14 counties have more than one municipal court).

For its part, the Judicial Council is assisting courts in developing and implementing their individual coordination plans. The 1995–96 through 1996–97 coordination plans are in the process of being reviewed, and as of March 29, 1996, 27 of 58 plans had been approved. New council standards and

guidelines adopted in 1995 now provide a sequence and time frames for court plans to follow. The council also has set up the Trial Court Coordination Evaluation Task Force to monitor programs, provide training and assistance, and make recommendations to ensure compliance with new rules, standards, and statutes.

Assessing “Three Strikes”

The impact of the “three strikes” law on criminal and civil dockets is damaging the ability of many courts to meet their obliga-



tions to the public (see Sections I and II). The Judicial Council is in the process of compiling results of a comprehensive analytical study to assess the law’s impact. Some of this study’s early findings are reported in Section II: Trial Court Report.

The council also has established a “Three Strikes Network” of courts around the state. The network is collecting useful information about the procedures and programs various courts have created to help manage the battery of new jury trials and the corresponding transfer of civil resources. The council is circulating this information among the courts to help them benefit from each other’s experiences and responses. San Diego Superior Court, for example, has set up a specialized depart-

ment to handle only third-strike cases. Other courts are diverting civil resources to criminal dockets. The council hopes that its information network will circulate useful ideas around the state and mitigate the effects of the law on court workload.

Reconsidering Cameras in Court, Jury Reform

In the wake of several recent prominent court trials, intense debates unfolded on two key issues: whether cameras should be allowed to broadcast trials from courtrooms and what constitutes the appropriate duties, procedures, and composition of juries.

California is one of 47 states that allow some form of camera coverage in the courts. Responding

to a request from the Governor and to public debate, the Task Force on Photographing, Recording, and Broadcasting in the Courtroom was appointed in October 1995. Its mission was to re-examine an 11-year-old rule of court that specifies the conditions under which film and electronic recording are permitted in state courtrooms. In February 1996, the task force submitted a report to the Judicial Council that contained recommendations concerning these issues, which were circulated for public comment. The Judicial Council in May 1996 voted to permit electronic media coverage but identified 18 factors that should be considered by the judge. No coverage is permitted of jurors or spectators.

The Judicial Council in May 1996 voted to retain judicial discretion on cameras in the courts but added restrictions.

In May 1996, the *Report of the Blue Ribbon Commission on Jury System Improvement* was received by the Judicial Council, which then referred many of the recommendations contained in the 100-page document to its various committees for further action. The council forwarded to the Legislature a proposal on nonunanimous verdicts and deferred consideration of other legislative proposals until the council's July 1996 meeting. The commission was appointed in December 1995 to comprehensively review all aspects of the jury system.

Ensuring Fairness

Ensuring gender, racial, and ethnic fairness in the courts has been among the Judicial Council's most important undertakings. The council's Access and Fairness Advisory Committee is organized into five subcommittees that address issues regarding racial and ethnic bias, gender fairness, access for persons with disabilities, and sexual orientation fairness as well as education and implementation.

■ The Subcommittee on Access for Persons with Disabilities held statewide public hearings in 1995.

■ The council's Advisory Committee on Racial and Ethnic Bias has prepared three reports as part of its comprehensive study of racial and ethnic fairness in the state's courts and is working on a fourth and final study of jury trials and juror attitudes.

■ The Gender Fairness Subcommittee reported to the Judicial Council that over one-third of the 68 recommendations adopt-

Encouraging Trial Court Innovation

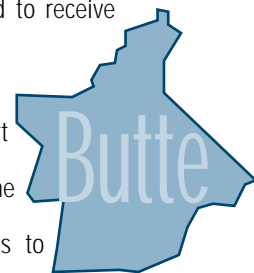
The Judicial Council encourages and acknowledges excellence in court administration. Courts throughout the state are constructing creative new programs to improve efficiency and service even while they confront inadequate funding and resources.

Each year since 1990, the Judicial Council has selected several such programs for special recognition. Winners receive the Ralph N. Kleps Improvement in the Administration of the Courts Award, named for the first Administrative Director of the California Courts.

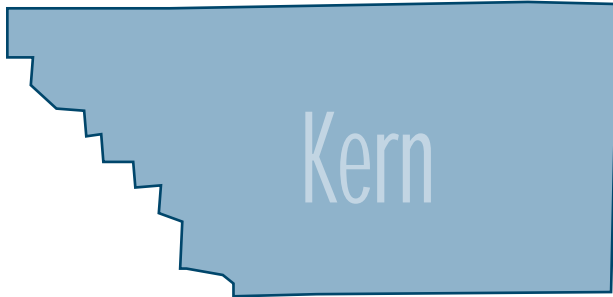
In 1995, 10 courts were selected to receive this award. They are:

► North Butte County Municipal Court conducted small claims trials in the city's junior and senior high schools to allow students to learn firsthand how disputes can be resolved in a fair and reasonable manner.

► Fremont-Newark-Union City Municipal Court has eased access to the court for Alameda County commuters who must pay common traffic citations. The court offers extended-hour service through 11 branches of a local financial institution. An ATM machine also was installed near the traffic counter in the Clerk's Office for people making payments to the court.



- Bakersfield Municipal Court (Kern County) launched a revenue recovery program that starts in the traffic and criminal courtrooms at the time of sentencing and is fully integrated with case



processing and disposition. Expanded to the other regional municipal courts, the program provides a formal indigent defense pre-appointment screening and cost-recovery program for the municipal and superior courts and the public defender's office.

- Pomona Municipal Court (Los Angeles County) created a program that encourages court staff and bench officers to participate in improving public accessibility to the court through education, in-



house mentoring, and community service programs.

- Los Angeles County Superior Court introduced touch-tone telephones—(800) SRV-JURY—that allow people summoned for jury duty to process their own requests for postponements, obtain excuse-and-transfer information, find out if they must report for jury duty, and obtain general jury information or court-specific information for the court location to which they will report.

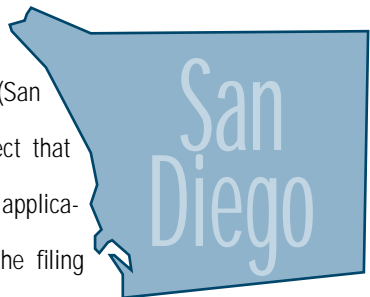
- Los Angeles County Superior Court created a corps of volunteer visitors for the over 8,000 individuals under judicial conservatorship of the court.

- Sacramento Superior and Municipal Courts developed a program of volunteers to assist pro per litigants in completing complex family law forms.



- San Diego County Superior Court contracted with a volunteer attorney agency to provide pro per clients limited legal assistance.

- North County Municipal Court (San Diego County) created a project that provides a multi-user database application that tracks bonds from the filing date through summary judgment. The "event-driven" system generates a To-Do listing of bonds to be audited on a daily basis.



- Santa Clara County Superior Court set up a pilot project that coordinates the staff resources of both superior and municipal courts in processing all aspects of selected misdemeanor and felony narcotics cases (including pending cases at all procedural stages, violations of probation, and new cases) involving defendants who are severely addicted to narcotics. The project examines whether early resolution of narcotics cases within three to five days of arrest and immediate entry into treatment is more successful and cost-effective than the traditional adversarial system for these defendants.



ed by the council have been implemented. An implementation report and a final version of the original 1990 gender bias report will be published in July 1996. The subcommittee also received funding from the State Justice Institute to develop an educational curriculum on sexual harassment awareness and prevention.

■ The Subcommittee on Sexual Orientation Fairness, which is reviewing issues of bias based upon sexual orientation, has planned several focus group meetings for people who wish to share their experiences in the justice system.

■ The Judicial Council aims to increase both the number and quality of court interpreters. A council committee is carrying out a comprehensive program that consists of statewide coordination of recruitment, training, testing, certification, renewal of certification, continuing education, and monitoring interpreter performance.

Focusing on Family Relations Caseloads

Cases that involve child custody, dependency, and support, as well as cases involving delinquency and domestic violence, are

Family Violence Prevention

The Judicial Council held a first-of-its-kind conference on courts and domestic violence in 1994. The key accomplishment that emerged from this historic gathering was the creation of family violence prevention coordinating councils in each county. The county councils, monitored by a Judicial Council subcommittee on domestic violence, work primarily with local courts but also cooperate with other agencies and organizations in the county that serve families and children. A reunion of the 58 county teams was held in January 1996 at which some 200 participants representing 49 of the state's 58 counties explored specific ways to respond to family violence.

among the most difficult for the courts to resolve.

■ In 1995, the Judicial Council launched a formal assessment of court practices and procedures relating to children and youth in the state's child welfare and juvenile justice system. The council is particularly focused on abused and neglected children whom the courts have placed out of home. The council's goal is to determine how



the court system can improve the handling of these sensitive cases.

■ With funding from the Office of Criminal Justice Planning, the Judicial Council has established an Attorney Training Program to train court appointed counsel for children, especially child victims, in juvenile dependency and other court proceedings.

■ The Judicial Council also has created the Judicial Review and Technical Assistance Project, funded by the State Department of Social Services, to assist the courts in complying with state and federal statutes governing juvenile court proceedings.

■ The Judicial Council administers a Court Appointed Special Advocate (CASA) Grant Program that is designed to provide

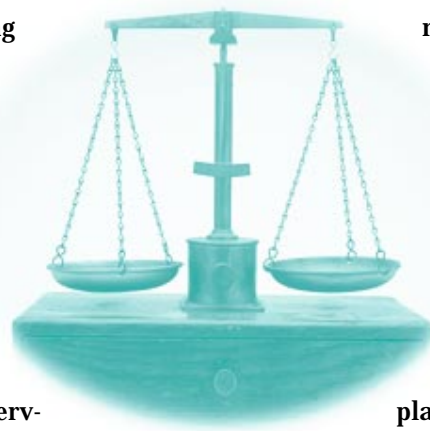
funding and guidance to CASA programs around the state. CASA programs recruit, screen, train, supervise, and support lay volunteers who provide much-needed assistance to abused and neglected children who are involved in judicial proceedings. The council is currently encouraging the development of CASA programs throughout the state by seeking additional funding for the CASA grant program.

■ The council's Statewide Office of Family Court Services (FCS) provides direct support to trial courts. These services—family mediation, ADR, and auxiliary services—aim to help families with custody and support disputes reach negotiated settlements. More than 73,000 families receive such services each year. FCS also provides nonjudicial court staff with 20–30 hours of continuing education annually through intensive statewide institutes and regional programs.

Expanding Technology and Automation

The Advisory Committee on Court Technology was established in 1995 to promote, coordinate, and facilitate the application of technology to the work of the courts. The committee is developing standards for technological compatibility and oversees court technology projects funded in whole or in part by the state. It also assists courts in

acquiring and developing useful technology systems and will propose rules, standards, or legislation to ensure privacy, access, and security. A public hearing was held in 1995 to obtain input on the best ways to protect privacy rights while assuring fair and equal access to electronic court data.



As part of trial court coordination requirements, the committee also is helping the trial courts develop a plan for county-wide implementation of technology. California Rules of Court, rule 991(d) requires the courts to have a plan by September 1, 1996. The committee's assistance is focused on documenting the status of technology in each trial court and developing and documenting strategic court technology plans for all 58 counties.

Continuing Education

Recognizing that judges need continuous training in complex areas of the law to comprehend the new issues coming before them, the Judicial Council has developed an internationally recognized judicial education program. The Center for Judicial Education and Research (CJER) offers comprehensive training for state judicial officers and hosts programs for judges from more than 50 visiting countries a year. Approximately one-third of all sitting judges in California participate as planners or faculty for judicial

education programs on a pro bono basis.

Judicial education is now mandatory for newly appointed trial judges and appellate justices. Additionally, in specific areas of law and social policy, judicial education is now required for judges handling family law matters. CJER also provides education on cutting-edge social issues that are critical to the courts, including diversity, domestic violence, appropriate dispute resolution, environmental quality, and the handling of cases in which alcohol and drugs are a factor.

COURT STAFF

In addition to this comprehensive program of education and training for judges, the Judicial Council provides administrative training for court staff under the Judicial Administration Institute of California

Long-Range Strategic Plan for the Courts

The Judicial Council in 1995 released *Leading Justice Into the Future*, its vision for the future of the California courts. The document, which is regularly reviewed and updated, sets out the broad long-range strategic plan for the state's judicial system and a more detailed action plan for the council's advisory committees and the Administrative Office of the Courts.

The plan was developed with significant involvement by judges and court administrators from across the state and representatives of the State Bar, the Legislature, the executive branch, and the public.

The Judicial Council implements the plan at the state level by adopting policies, court rules, and standards of judicial administration, and by proposing legislation. At the local level, individual courts are encouraged to develop implementation plans that are consistent with the long-range plan and responsive to the needs of their local communities.

The current plan addresses the council's vision that the judiciary be responsible for managing the judicial system to ensure the fair administration of justice across the state.

Five Judicial Council Goals

- Access, Fairness, and Diversity
- Independence
- Modernization
- Quality of Judicial Officers and Personnel
- Education

(JAIC). These programs focus primarily on education for appellate and trial court administrators and staff. They rely on the council's staff agency, the Administrative Office of the Courts, to provide or assist in providing training to all levels of staff in the judicial branch on a variety of relevant court administration subjects.

Pursuing Legislation

When the Legislature began its 1995–96 session, two-thirds of the Assembly members had two or fewer years of experience in the Legislature. Legislators serving under term limits have little time to learn the myriad issues that confront them, including the issues of most significance to the judicial branch. In 1994, the Judicial Council's Office of Governmental Affairs launched a program designed to enhance the judiciary's relationship with the legislative and executive branches. A primary goal of the program is to inform legislators—particularly new members—about the judicial branch structure and issues.

KEY BILLS IN 1996

The Judicial Council sponsors and supports legislation that promises to advance the court reform goals outlined in its Long-Range Strategic Plan. The following is a list of some of the many noteworthy legislative proposals in the 1995–96 Legislative Session: Senate Bill No. 99 (Kopp) (Stats. 1996, ch. 42)

Supplemental Funding—Provides up to \$50 million in state and county supplemental funding to the trial courts for the last

quarter of fiscal year 1995–96; provides for the funding to be allocated by the Judicial Council for support of courts that lack sufficient fiscal resources to finance required and essential services.

Senate Bill No. 874 (Calderon)

New Judgeships—Authorizes additional appellate court justices and may be the vehicle to provide additional trial court judgeships as recommended by the council based on the work of the Judgeship Needs Advisory Committee.

Senate Bill No. 1523 (Calderon)

Coordinated Courts: judicial compensation—Authorizes municipal court judges who participate in a Judicial Council–approved coordination plan, and who are assigned pursuant to a Judicial Council–certified uniform county- or region-wide system for case assignment that maximizes existing judicial resources, to receive pay equivalent to that of a superior court judge.

Senate Bill No. 1726 (Wright)

Civil Case Coordination—Amends the law governing civil case coordination by dividing coordination petitions into “complex” and “non-complex” matters. Non-complex matters will be petitioned to the presiding judge in one of the courts in which an action is pending rather than to the Chief Justice. Complex matters will be petitioned to the Chief Justice in his or her role as Chair of the Judicial Council.

Senate Bill No. 1961 (Calderon)

Court Staffing—Makes statutory staffing changes for trial court employees.

Assembly Bill No. 2154 (Kuehl)

Juvenile Court Restraining Orders—Clarifies that the juvenile court has the authority to issue restraining orders on behalf of a child at any time after a W & I Code section 300 petition has been filed through the termination of the court’s jurisdiction. Also permits the court to issue orders against a parent, guardian, or member of the child’s household.

Assembly Bill No. 2567 (Goldsmith)

Small Claims Act: property managers—Permits a rental property agent to appear in small claims court on behalf of a property owner. This bill will facilitate small claims proceedings in which a property manager rather than owner is involved in the day-to-day management of the property. In these situations, the property agent and the tenant are best able to testify to the facts based on firsthand knowledge, and thus enable the small claims court to resolve the dispute.

Assembly Bill No. 2667 (Davis)

In Forma Pauperis—Requires applicants for in forma pauperis status who state that they receive public assistance to document that assistance. In addition, requires applicants who state that their incomes are less than 125 percent of the federal poverty level to document that income level.

Assembly Bill No. 2740 (Ackerman)

Orange County DUI Pilot Project—Establishes a pilot program to exempt Orange County courts from mandatory participation in the existing state-licensed drinking driver programs as a condition of sentencing in DUI cases.

Mission, Goals, and Role of the Administrative Office of the Courts (AOC)

Mission

To promote the fair administration of justice in the courts of California by providing professional, responsive administrative support to the Chief Justice, the Judicial Council, and the courts in the fulfillment of their constitutional responsibilities.

Goals

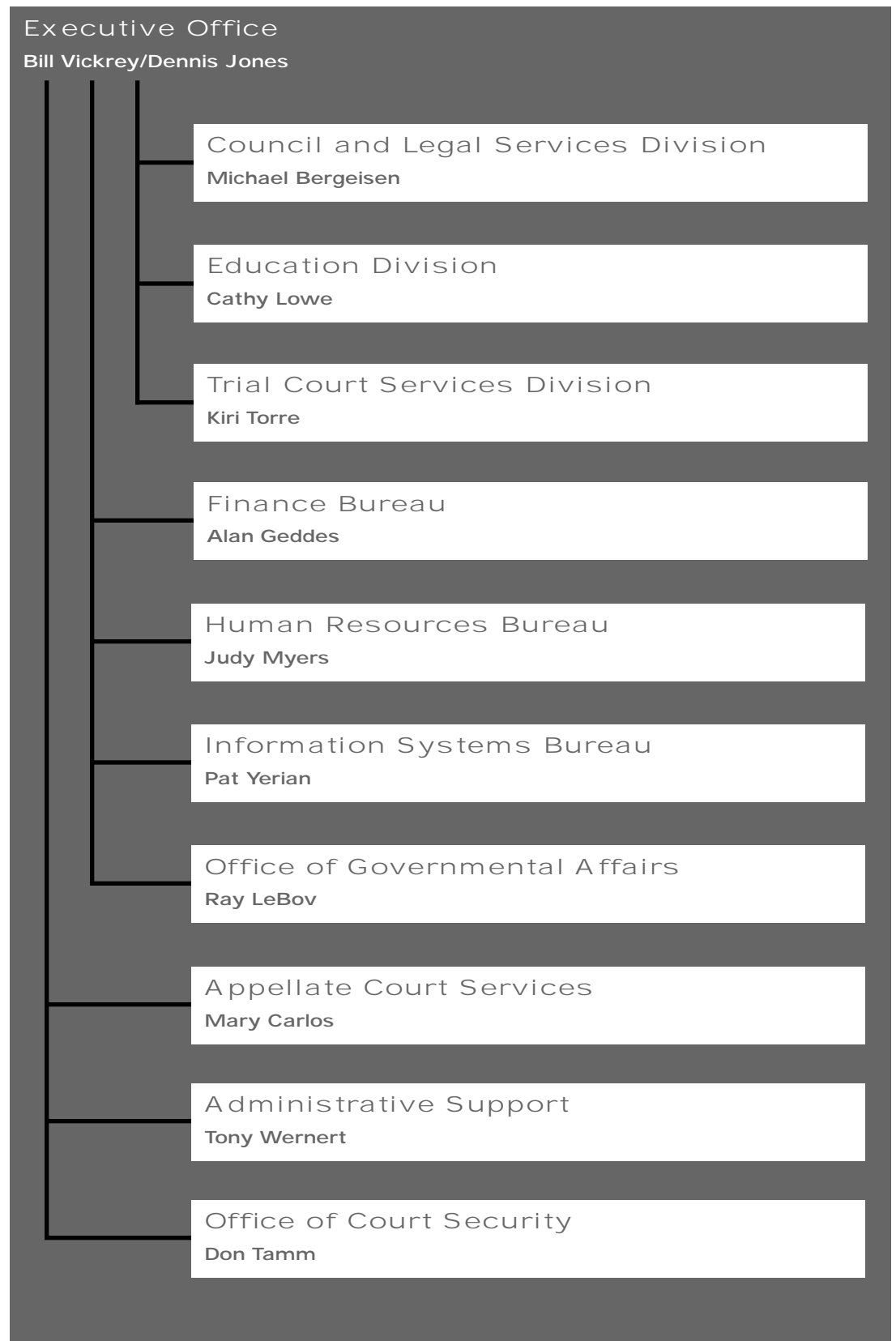
- The AOC is perceived by its principal customers, especially the trial, appellate, and Supreme courts, as a service agency that helps them achieve their missions.
- The AOC will use its limited resources to perform a limited number of high-priority activities very well as measured by its customers.
- The AOC will be a good steward of judicial branch resources, including the time it requires of judges and judicial branch employees to review material and participate in activities sponsored by the AOC.

Role

The role of the Administrative Office of the Courts is to provide:

- services to the Judicial Council and the courts consistent with a decentralized management system;
- support to the Judicial Council in its role in establishing governance policies for the state judicial system;
- direct support to the Chief Justice in his or her role as chair of the Judicial Council;
- support to the work of the Judicial Council's internal and advisory committees;
- implementation support for the council's Long-Range Strategic Plan based on priorities set by the Judicial Council;
- services as a resource to the courts including technical assistance in key areas of judicial administration and advocacy efforts;
- effective policy and statistical analyses for the Judicial Council in identifying and anticipating issues;
- active and affirmative representation of the judicial branch with other branches of government; and
- direct management services for certain discrete programs (e.g., court interpreters, judicial assignments) as directed by the Judicial Council.

Administrative Office of the Courts Organizational Chart



The Judicial Council of California

Chaired by the Chief Justice, the Judicial Council of California provides policy direction to the courts, the Governor, and the Legislature concerning court practice, procedure, and administration. The council is dedicated to improving state court administration.

The council performs its constitutional and other functions with the support of its staff agency, the Administrative Office of the Courts (AOC), under the leadership of William C. Vickrey, Administrative Director of the Courts.

New judicial members of the council and its committees are selected by a nominating procedure that is designed to attract applicants from throughout the judicial branch. Diversity of experience, gender, ethnic background, and geography are the guiding criteria for selection.

The 21 members of the council include 14 judges appointed by the Chief Justice (one associate justice of the Supreme Court, three judges of the Courts of Appeal, five superior court judges, and five municipal court judges); four attorney members appointed by the State Bar Board of Governors; and one member from each house of the Legislature. The council also has seven advisory members, including representatives of the California Judges Association and state court administrative associations.

Staggered terms, with one-third of the council's membership changing each year, aim to ensure continuity while creating opportunities for new participation and input.

The Judicial Council's long-range strategic plan for the California judicial sys-

tem, *Leading Justice Into the Future*, contains a detailed action plan for the council's advisory committees and the Administrative Office of the Courts. The plan, which is refined annually, addresses the council's vision that the judiciary be responsible for managing the judicial system to ensure the fair administration of justice across the state. At the same time, the plan encourages a decentralized system where individual courts manage their own operations and resources.

The plan is implemented at the council level through the activities of its committees and the AOC. At the local level, individual courts are responsible for developing implementation strategies that are consistent with the plan and responsive to the needs of their local communities.

Judicial Council Members

HON. RONALD M. GEORGE, Chair
Chief Justice of California

HON. JAMES A. ARDAIZ
Presiding Justice, Court of Appeal
Fifth Appellate District

HON. MARVIN BAXTER
Associate Justice of the
Supreme Court

HON. ROGER W. BOREN
Presiding Justice, Court of Appeal
Second Appellate District

HON. CHARLES CALDERON
Member of the Senate

HON. J. RICHARD COUZENS
Presiding Judge of the Superior
Court
Placer County

HON. EDWARD FORSTENZER
Judge of the Mono Municipal Court

HON. LOIS HAIGHT
Judge of the Superior Court
Contra Costa County

MR. DALLAS S. HOLMES
Attorney at Law
Riverside

HON. STEVEN J. HOWELL
Judge of the Superior Court
Butte County

HON. ROBERT M. MALLANO
Judge of the Superior Court
Los Angeles County

HON. JON M. MAYEDA
Judge of the Los Angeles
Municipal Court

HON. BILL MORROW
Member of the Assembly

HON. KATHLEEN E. O'LEARY
Judge of the Superior Court
Orange County

HON. RISE JONES PICHON
Judge of the Santa Clara County
Municipal Court

HON. ELEANOR PROVOST
Judge of the West Municipal Court
(Tuolumne County)

MR. HARVEY I. SAFERSTEIN
Attorney at Law
Los Angeles

HON. ARTHUR G. SCOTLAND
Associate Justice, Court of Appeal
Third Appellate District

HON. KATHRYN DOI TODD
Judge of the Superior Court
Los Angeles County

MS. GLENDA VEASEY
Attorney at Law
El Segundo

MR. BRIAN C. WALSH
Attorney at Law
San Jose

HON. PAUL BOLAND (Advisory
Member)
California Judges Association
Judge of the Superior Court
Los Angeles County

MS. SHARON A. GONTERMAN
(Advisory Member)
Association of Municipal Court
Clerks
Court Administrator
Long Beach Municipal Court

MR. HOWARD HANSON (Advisory
Member)
County Clerks' Association
County Clerk—Court Administrator
Marin County Clerk's Office

MR. RONALD OVERHOLT (Advisory
Member)
Association for Superior Court
Administration
Executive Officer/Clerk
Alameda County Superior Court

HON. ROBERT SCHLEH (Advisory
Member)
California Court Commissioners
Association
Commissioner, Sacramento County

MR. MICHAEL YERLY (Advisory
Member)
Appellate Court Clerks' Association
Clerk of the Court, Court of Appeal
Sixth Appellate District

MR. WILLIAM C. VICKREY
Administrative Director of the
Courts
Secretary of the Judicial Council

Judicial Council Committees

INTERNAL COMMITTEES*

Executive & Planning
Policy Coordination & Liaison
Rules and Projects

ADVISORY COMMITTEES

Access and Fairness

Administrative Presiding Justices

Appellate

Civil and Small Claims

Center for Judicial Education and
Research (CJER) Governing Committee

Court Administrators

Court Interpreters

Court Technology

Criminal Law

Family and Juvenile Law

Judgeship Needs

Traffic

Trial Court Budget Commission

Trial Court Presiding Judges

TASK FORCES

Blue Ribbon Commission on Jury System
Improvement

Executive Legislative Action Network (ELAN)

Judicial Administration Institute of California
(JAIC)

Task Force on Photographing, Recording, and
Broadcasting in the Courtroom

Trial Court Coordination Evaluation

State Court Outlook

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